

# Central Intelligence Agency Reasonable Accommodation Policy and Procedures

## 1. Purpose

In compliance with the authorities listed below (see Section 2: Authority), the Central Intelligence Agency (CIA) hereby sets forth policy and procedures for requesting a reasonable accommodation, and for processing reasonable accommodation requests. This document establishes the policy, responsibilities, and procedures for the use of assistive technology, job restructuring, reassignment, Personal Assistance Services (PAS), and other accommodations available for qualified employees or applicants who have a disability. Given that all Agency information systems are considered National Security Systems (NSS) and are therefore exempt from the electronic and information technology standards set forth in section 508 of the Rehabilitation Act, to the extent an accommodation request implicates Agency information systems, this document and related procedures reflect the CIA determination to provide electronic and information technology solutions to the extent practicable, as a matter of policy. This document remains in effect until either rescinded or superseded.

## 2. Authorities

- Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 791)
- Americans with Disabilities Act (ADA) Amendments Act of 2008 (42 U.S.C. § 12101)
- U.S. Equal Employment Opportunity Commission (EEOC) Regulations at 29 CFR Part 1614 (Federal Sector Equal Employment Opportunity), amended January 3, 2017
- Executive Order 13164 Requiring Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation
- Genetic Information Non-discrimination Act of 2008
- Executive Order 13145 To Prohibit Discrimination in Federal Employment Based on Genetic Information
- Privacy Act of 1974, as amended (5 U.S.C. § 552a)
- Equal Employment Opportunity Commission (EEOC) Management Directive 715

## 3. Scope

The policy and procedures in this document apply to all qualified CIA employees and applicants for employment who have a disability, as defined by law (see Section 5: Definitions).

## 4. Goals

The goals of the Agency's Reasonable Accommodations (RA) Program are to ensure:

- 4.1. CIA complies with applicable federal laws and regulations;

4.2. Qualified employees and applicants are provided an effective accommodation to the extent practicable; and,

4.3. Accommodation requests are processed as expeditiously as possible. However, due to CIA's unique mission focus, some requests for accommodations may require additional time for approvals, particularly if the request is for something, such as technology, that has not been previously assessed or approved for CIA's environment.

## 5. Definitions

5.1. Individual with a disability: Under the Rehabilitation Act, an individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. The term disability includes only physical or mental impairments, and not environmental, cultural, or economic disadvantages.

5.2. Qualified individual with a disability: A qualified individual with a disability is a person who satisfies the skill, experience, education, and other job-related requirements of a position that the individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

5.3. Physical or mental impairment:

5.3.1. A physical or mental impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as, but not limited to, neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, respiratory (including speech organs), genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine, or any intellectual or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

5.3.2. An impairment that is episodic or in remission is a disability if it substantially limits a major life activity when active.

5.4. Major life activity: Major life activities are functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, speaking, breathing, learning, working, sitting, standing, lifting, bending, and mental processes such as thinking, concentrating, and interacting with others and incorporates major bodily functions (e.g., functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions).

5.5. Record of such an impairment: Record of such an impairment means having a history of, or being classified (or misclassified) as having a physical or mental disability that substantially limits one or more major life activity.

5.6. Regarded as having such impairment: Regarded as having such impairment means having an actual or perceived physical or mental impairment, whether or not that impairment substantially limits major life activities.

5.7. Reasonable accommodation (RA): A reasonable accommodation is any change in the work environment (or the way things are usually done), to assist qualified employees or applicants with a disability: (1) apply for a job; (2) perform the essential functions of the job; or (3) enjoy the equal benefits and privileges of employment.

5.8. Essential job functions: Essential job functions are those duties that are so fundamental to a given position that the individual cannot successfully do the job without being able to perform them. A function can be “essential” if, among other things, the position exists specifically to perform that function, there are a limited number of employees who could perform the function, or the function is specialized, and the individual is hired based on his or her ability to perform it. 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.

5.9. Undue hardship: Undue hardship means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the Agency. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature of operation of the Agency.

5.10. Interactive process: After a request for accommodation has been made, the next step is for the parties to begin the interactive process to determine what, if any, accommodation should be provided. The interactive process is a collaborative effort involving the employee and the Agency to discuss their accommodation request, the precise nature of the problem that is generating the request, the precise limitations created by the disability, how a disability is prompting a need for an accommodation, and alternative accommodations that may be effective in meeting an individual’s needs.

5.11. Targeted disability: The term targeted disability means a disability that is designated as a “targeted disability or health condition” on the Office of Personnel Management’s Standard Form 256 or that falls under one of the first 12 categories of disability listed in Part A of question 5 of the Equal Employment Opportunity Commission’s Demographic Information on Applicants form.

5.12. Confidentiality: Confidentiality means maintaining adequate security controls, such as locks and encryption, to ensure the information is protected against unauthorized disclosures.

## 6. Responsibilities

6.1. The Chief, Reasonable Accommodations Staff (C/RAS) is designated as the CIA management official responsible for ensuring there is CIA-wide policy on reasonable accommodation, and that reasonable accommodations are made for qualified employees or applicants with a disability in accordance with applicable laws and regulations.

6.2. The Reasonable Accommodations Program Manager (RAPM) is responsible for the development, implementation, and operation of the Agency's RA Program—including providing guidance on reasonable accommodation matters related to employees and applicants. The RAPM is also responsible for assisting management deciding officials (MDOs) in identifying effective accommodations.

6.3. The Ability Talent Broker is responsible for coordinating with the Center for Global Health Service (CGHS) and other groups as necessary to ensure applicants receive appropriate information about accommodations and to work with applicants who request accommodations throughout the application, hiring, and onboarding processes.

6.4. The Management Deciding Official (MDO) can approve requests for reasonable accommodations which do not require medical documentation (e.g., special office supplies, flexible work schedule, temporary work location, etc.) (see Section 9: Required Documentation). The term MDO includes supervisors, managers, and office directors in an employee's chain of command. MDOs should consult with appropriate officials, such as Human Resources Officers (HROs), the RAPM, CGHS, and attorneys in OGC's Administrative Law Division (OGC/ALD); if the MDO is looking for functional limitations, then they can engage with CGHS without a release of information. If the MDO is considering, for approval, an accommodation request related to electronic and information technology, coordinate with the Chief Information Officer (CIO). Conferring with appropriate Agency officials does not relinquish the MDO's responsibility to render a decision, notify the employee or applicant, or attempt to provide the accommodation solution within reasonable timeframes specified in the Reasonable Accommodation Policy and Procedures, absent extenuating circumstances. The MDO may not deny a request for a reasonable accommodation, only the RAPM may deny a request for a reasonable accommodation.

6.5. The Human Resources Officer (HRO) is responsible for providing human resources services to Agency employees and applicants. The HRO is responsible for assisting MDOs and the RAPM in considering reasonable accommodation requests; determining essential functions of the job; and conducting job analyses on vacant positions, in the case of reassignment as a last resort.

6.6. Office of General Counsel, Administrative Law Division (OGC/ALD) is responsible for providing counsel on the interpretation of the Rehabilitation Act. To the extent the interpretation relates to the National Security System (NSS) exemption from the electronic and information technology standards set forth in Section 508 of the Rehabilitation Act, OGC/ALD will coordinate with OGC's Information Law unit in the

Directorate of Digital Innovation which provides legal support to the Chief Information Officer.

6.7. Employees and applicants for employment are, in most cases, responsible for initiating the reasonable accommodation process by bringing their requests for accommodation to the attention of an appropriate agency official.

6.8 Chief Information Officer. Upon the request of an MDO, or other appropriate official, coordinate on reasonable accommodation requests and approvals related to electronic and information technology.

## **7. Decision Making Authority**

7.1. The MDO has the authority to approve requests for reasonable accommodations that do not require medical documentation, such as requests for a flexible work schedule or temporary adjustment to duties, such as lifting. MDOs should engage in the interactive process with the individual requesting the accommodation. A request for reasonable accommodation is the first step in an informal, interactive process, typically between the individual and the supervisor. Resources, such as the RAPM and HROs are available to help ensure a productive communication process. MDOs are also encouraged to contact OGC/ALD attorneys with requests for legal guidance on the interpretation of the Rehabilitation Act and employment law issues. The MDO may not deny a request for a reasonable accommodation, only the RAPM may deny a request for a reasonable accommodation.

7.2. The RAPM has the authority to approve or deny any request for reasonable accommodation, including those requests that require medical documentation. As described in more detail below (see Section 9: Required Documentation), this documentation must be prepared by an appropriate professional and should include: diagnosis, limitation(s), recommended accommodation(s), and prognosis (temporary/permanent).

## **8. Process Description**

There are five possible phases of the RA interactive process: initiation of request, consideration of request, decision, post-decision implementation and evaluation, and reconsideration. Care must be taken to ensure preservation of confidentiality in processing requests for reasonable accommodations.

### **8.1. Initiation of Request:**

8.1.1. A verbal or written request for accommodation is deemed acceptable as initiating the interactive process. The requestor need not have a particular accommodation in mind prior to requesting an accommodation. The requestor may make a request for reasonable accommodation to (1) a supervisor or manager in the individual's chain of command; (2) the RA staff; or (3) the RAPM; (4) the applicant's Agency point of contact; or (5) a toll-free number for applicants who have yet to be assigned an Agency point of contact [1- (866) 237-7221]. The requestor may make this request directly, or through a representative, including

but not limited to a family member, health professional, or fellow employee. A request for accommodation is a statement that an individual needs an adjustment or a change at work or in the application process for a reason related to a medical condition and should be recognized by an MDO as a verbal request for accommodation. Any employee-initiated expression of a job performance limitation for a medically-related reason (e.g., migraines, vision, frequent medical appointments, etc.) should be recognized by an MDO as a verbal request for accommodation.

8.1.1.2 Once the request is made to an MDO, the employee should be directed to contact the RAPM through the internal RA database (or the MDO should submit a request in the internal RA database on the employee's behalf) for action, service delivery, and/or Agency accommodation reporting. In the event the internal RA database is not accessible or available to the employee or applicant, the form attached at Appendix A can be provided directly to a MDO, RAPM, or hiring POC. Failure to use the attached form does not limit the Agency's requirement to respond to the request for accommodation. Examples of how to recognize a request for reasonable accommodation include, but are not limited to:

Example A: An employee tells her supervisor, "I'm having trouble getting to work at my scheduled starting time because of medical treatments I'm undergoing." This is a request for a reasonable accommodation.

Example B: An employee tells his supervisor, "I need six weeks off to get treatment for a back problem." This is a request for a reasonable accommodation.

Example C: A new employee, who uses a wheelchair, informs the employer that her wheelchair cannot fit under the desk in her office. This is a request for reasonable accommodation.

Example D: An employee tells his supervisor that he would like a new chair because his present one is uncomfortable. Although this is a request for a change at work, his statement is insufficient to put the employer on notice that he is requesting reasonable accommodation. He does not link his need for the new chair with a medical condition.

8.1.1.3. The Ability Talent Broker or the hiring point of contact (POC) should submit a request in the internal RA database for an accommodation requested by an applicant for employment. The Ability Talent Broker or the hiring POC are responsible for monitoring progress of the request and conveying information to the applicant.

8.1.2. Within 15 business days, the MDO should submit a written decision to the employee and RAPM. Supervisors, managers, and HROs should not request or review any medical documentation from an employee, but can request an employee submit medical documentation to the RAPM (see Section 9: Required Documentation).

8.1.3. Communication is a priority throughout the entire process, but particularly where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are considering different forms of reasonable accommodation. Both the individual making the request and the decision maker should work together to identify effective accommodations.

8.1.4. In circumstances where medical documentation is required for consideration of a reasonable accommodation, the employee must submit the documentation to the RAPM and the applicant must submit the documentation to the Ability Talent Broker, who then relays the documentation to the RAPM. (see Section 9: Required Documentation).

8.1.5. If the employee or applicant fails to provide sufficient medical documentation within 90 days, the request for accommodation will be closed with the explanation that the request could not be considered due to the lack of requested documentation.

## 8.2. Consideration of Request:

8.2.1. In this phase, the MDO or the RAPM should work collaboratively with appropriate stakeholders to determine whether the requested accommodation is necessary to perform the essential functions of the job or enjoy the equal benefits and privileges of employment, whether additional documentation is necessary, or whether to present an alternate effective accommodation. Appropriate stakeholders in the identification and evaluation of potential accommodations may include, but are not limited to, the requestor's component, assistive technology specialists, facilities specialists, medical specialists, and security specialists. After a request from a qualified individual with a disability is received, the MDO or RAPM will review the requested accommodation or offer an alternative accommodation that is effective. In the context of job performance, this means that the reasonable accommodation enables the individual to perform the essential functions of the position.

8.2.2 Resources to inform consideration of requests and other disability related matters are available at [www.eeoc.gov](http://www.eeoc.gov) :

- EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act  
([http:// www.eeoc.gov/ policy/ docs/ sccommodation.html](http://www.eeoc.gov/policy/docs/sccommodation.html))
- EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act ([www.eeoc.gov/ policy/ docs/ guidance-inquiries.html](http://www.eeoc.gov/policy/docs/guidance-inquiries.html))
- Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation  
([www.eeoc.gov/ docs/ accommodation\\_procedures.html](http://www.eeoc.gov/docs/accommodation_procedures.html))

- Employer-Provided Leave and the Americans with Disabilities Act (<https://www.eeoc.gov/eeoc/publications/ada-leave.cfm>)
- Enforcement Guidance on Pregnancy Discrimination and Related Issues ([www.eeoc.gov/laws/guidance/pregnancy\\_guidance.cfm](http://www.eeoc.gov/laws/guidance/pregnancy_guidance.cfm))
- The Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 ([www.eeoc.gov/policy/docs/fmlaada.html](http://www.eeoc.gov/policy/docs/fmlaada.html))
- Enforcement Guidance: Workers Compensation and the ADA ([www.eeoc.gov/policy/docs/workcomp.html](http://www.eeoc.gov/policy/docs/workcomp.html))
- The Americans with Disabilities Act: Applying Performance and Conduct Standards to Employees with Disabilities ([www.eeoc.gov/facts/performance-conduct.html](http://www.eeoc.gov/facts/performance-conduct.html))
- Additional EEOC documents discussing specific types of disabilities and the most common reasonable accommodations for the; reasonable accommodations for particular types of workplaces; and leave and telework can be found at: <https://www.eeoc.gov/laws/types/disability/cfm>

8.2.3 Absent a showing of undue hardship to the Agency, the RAPM, MDO, and relevant stakeholders may not consider financial cost as a prohibitive factor in considering an accommodation request. Training is available to all supervisors, hiring officials, and reasonable accommodations program officials to ensure they understand the process for the use of Agency resources to provide accommodations, including access to centralized funding through the RAPM.

### 8.3. Decision:

8.3.1. In this phase, the MDO or RAPM notifies the employee/applicant of the decision to provide the requested accommodation, not to provide an accommodation, or to present an alternative accommodation. If the disability is obvious, written decisions shall be documented in an internal RA database and presented to the individual within 15 business days of the request when no medical documentation is required. If medical documentation is required by the RAPM, the decision will be issued within 15 business days from the date that sufficient medical documentation is received.

8.3.2. In instances that may require expedited processing of reasonable accommodation requests (e.g., enable an individual to apply for a job or to participate in a specific agency activity that is scheduled to occur shortly), the RAPM or MDO must make every effort to reach a decision quickly.

8.3.3. If the employee/applicant has requested a type of reasonable accommodation that he/she is likely to need on a repeated basis (e.g., sign



language interpreting, airline seat upgrade, personal assistance services, etc.), he/she will not be required to submit medical documentation each time the accommodation is needed, unless documentation indicated a disability is temporary or the essential job functions change. Once a reasonable accommodation is approved, the employee may subsequently obtain the accommodation by submitting a request through the internal RA database; some accommodations may not move automatically with the person from one job to the next, such as a flexible work schedule that would need to be renegotiated with new management.

8.3.4. Only the RAPM can deny requests for reasonable accommodation and must do so in writing and specifically explain the reasons the request was denied (e.g., why the medical documentation is inadequate to establish that the individual has a disability or needs an accommodation; why the requested accommodation would not be effective; or why the accommodation would pose an undue hardship). Denials must include information about the individual's rights (see Section 13: Notice of Rights).

#### 8.4. Post-Decision Implementation and Evaluation:

Once a reasonable accommodation request has been approved, in light of unique Agency equities, consultation with additional Agency stakeholders may be necessary in some cases, in order to ensure that implementation of the accommodation is done in a manner consistent with applicable Agency regulations and policies.

8.4.1. Every effort should be taken to implement the accommodation promptly, and where possible, prior to the prescribed timeframes for processing and providing a reasonable accommodation set forth below (see Section 8.6: Time Frames). Failure to provide the accommodation within the prescribed timeframes may result in a violation of the Rehabilitation Act.

8.4.2. When all the facts and circumstances known to the agency make it reasonably likely that an individual will be entitled to a reasonable accommodation immediately, the RAPM shall provide an interim accommodation that allows the individual to perform some or all of the essential functions of his or her job, if it is possible to do so without imposing undue hardship on the agency. Additionally, the deciding official must notify the individual of the reason for the delay. To the extent possible, the individual must be kept informed of the expected fulfillment date. Employees can track the progress of their reasonable accommodation request through the internal RA database, and applicants may contact the Ability Talent Broker for updates.

8.4.3. An important part of the Agency's reasonable accommodation process is monitoring the accommodation(s) after they are in place. Because changes may occur in the employee's abilities, workplace technology, software upgrades, or the work itself, the most effective way to ensure the continued effectiveness of the accommodation is for the employee, the MDO and the RAPM to maintain interactive communication.

8.5. Reconsideration:

8.5.1. If the employee/applicant disagrees with the decision reached by the MDO or RAPM, the employee or applicant may ask the RAPM (via the Ability Talent Broker, in the case of applicants) to reconsider the decision. The employee/applicant may provide new information/documents in support of the request for reconsideration. Response to a request for reconsideration should be provided no more than 15 business days from receipt of the request or receipt of additional information, if provided. If an alternate accommodation is offered, the employee/applicant must try the offered accommodation before requesting reconsideration. If the employee/applicant has tried the alternate accommodation and decided it is ineffective and the RAPM agrees, the interactive process will continue until either an effective accommodation is identified or the determination is made that there is no effective accommodation available because of an undue hardship to the Agency.

## 8.6. Timeframe for Processing Requests and Providing Reasonable Accommodations

The timeframe for evaluating and then either providing or denying an accommodation request begins as soon as the accommodation is first requested. Once a requestor makes an initial request for reasonable accommodation, the Agency shall process the request within the following timeframe:

Action	Timeframe (Business Days)
From time request is first made, confirmation to requestor that request has been received by RAPM	5-10
From time request is first made, written decision provided to requestor in cases where no medical documentation is required (i.e., special office supplies, flexible work schedule, temporary work location, etc.)	15
When medical documentation is required, written decision provided to the requestor when sufficient documentation is received by the RAPM	15
Providing an approved accommodation following issuance of decision*	10-30
Written notification of delayed implementation with explanation (if applicable)	Every 10 business days until completely fulfilled/implemented
Requestor may request reconsideration of a denied accommodation request to the RAPM upon receipt of denial decision**	10
Written decision of a Request for Reconsideration provided by RAPM to requestor upon receipt of reconsideration request	15

*\* Every attempt must be made to implement approved reasonable accommodations in less than the prescribed timeframes. When all the facts and circumstances known to the agency make it reasonably likely that an individual will be entitled to a reasonable accommodation immediately, the RAPM shall provide an interim accommodation that allows the individual to perform some or all of the essential functions of his or her job, if it is possible to do so without imposing undue hardship on the agency. Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. These may include, but are not limited to, situations in which equipment is on back order, the vendor typically used by the organization has unexpectedly gone out of business, or the accommodation impacts unique Agency equities.*

*\*\* If an employee/applicant believes the denial of a reasonable accommodation request was discriminatory, they have 45 calendar days to contact the Office of Equal Employment Opportunity (OEEO) from the initial notification of the request denial decision (see Section 13: Notice of Rights).*

## 9. Required Documentation

### 9.1. Initiation Phase:

9.1.1. Whether or not a disability is obvious, a verbal or written request or a request in the internal RA database indicating a medical reason for an accommodation from the employee or applicant for employment to an MDO, the RAPM, any official with hiring authority or the Ability Talent Broker initiates the interactive process. The employee or applicant is not required to use a specific

form and need not have a particular accommodation in mind before making the request.

9.1.2. When the disability is not obvious, not already known, or the employee has not already provided sufficient information to make a determination, the employee/applicant may be asked to provide a signed statement from a medical professional. The Agency must be able to authenticate the paperwork from the professional and determine from the paperwork what accommodations are necessary. The following steps are recommended for the most efficient processing. Without all of these elements, a request may be made of the employee to get more information from the medical professional. The projected time frames for approvals and implementation of accommodations do not include time spent between request for medical documentation and receipt of sufficient medical documentation. It is recommended that the statement be on the provider's letterhead and include the following elements:

- Requestor's name;
- Diagnosis;
- Limitations(s);
- Recommended accommodation(s); and
- Prognosis (temporary/permanent).

9.1.3. Medical documentation should only be collected and viewed by the RAPM or designated RA personnel, to include the Ability Talent Broker, when needed to evaluate the accommodation request. When needed, these personnel may require medical documentation to demonstrate (1) the nature of the individual's disability; (2) the need for reasonable accommodation; and (3) how the requested accommodation, if any, will assist the individual to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace. This information will be kept confidential and used solely for the purpose of evaluating a request for reasonable accommodation. All medical documents must be maintained in accordance with the requirements of the Privacy Act (PA) and the Rehabilitation Act. Medical documents received as part of the reasonable accommodation request must be separated from other documents and securely stored separate from official personnel files in an Agency-approved system, separate from the internal RA database and personnel records (see Section 9.4: Special Considerations for Medical Documents). The RAPM shall maintain these records for the length of the employee's tenure with the Agency and for three (3) years past separation.

9.1.4. An applicant or employee requesting an accommodation is responsible for providing appropriate medical information related to the disability and proposed accommodation as needed in a timely manner. The applicant/employee should take appropriate steps to ensure family medical history, and other extraneous information, is omitted from all documentation generated by their health care provider. Should any extraneous information be inadvertently acquired, the Agency shall abide by the provisions of the Genetic Information Nondiscrimination Act 29 C.F.R. §1635 *et seq.* The Agency has the right to have medical information reviewed by a medical expert of its choosing at the Agency's expense; if this information is to be shared outside of the Agency, such as with a third party medical expert, then the applicant/employee will be requested to provide written consent. The Agency also has a right to request relevant, supplemental medical information if the information submitted does not clearly explain the nature of the disability or substantiate the need for the reasonable accommodation. The Agency has a right to require that the medical information and/or requesting individual be examined by a physician of the Agency's choosing and at the Agency's expense. If an employee or their health professional fails to provide necessary documentation in a timely manner, adherence to usual Agency time frames will account for such delays.

## 9.2. Consideration and Decision Phases:

9.2.1. The MDO's decision to approve or to offer an alternative accommodation should be provided in writing within 15 business days from receipt of the request for an accommodation. Examples of accommodations may include, but are not limited to: special office supplies, flexible work schedule, temporary work location, etc. A copy of the decision must be sent to the RAPM for Agency recording keeping. MDOs should consult with appropriate officials, such as HROs, the RAPM, CGHS, and OGC/ALD for guidance, information, and assistance in identifying appropriate and effective reasonable accommodation solutions. The MDO must include a statement that includes all information used to determine his/her decision. CGHS would need written consent from the employee to discuss accommodation recommendations with the MDO.

9.2.2. If the RAPM is making the decision, the RAPM should provide a written decision to the requestor informing him/her the request has been approved, denied, or an alternative accommodation has been approved. This written decision must be provided to the requestor within 17 business days of the initial request, if no medical documentation was required, or 15 days after receipt of sufficient medical documentation. All denials must include a detailed justification and a notification of the individual's rights (see Section 13: Notice of Rights).

## 9.3. Reconsideration Phase:

9.3.1. Reconsideration requests must include the written decision documents and any new information that may impact and/or influence the reconsideration decision. Requests for reconsideration must include the reason for the request and the specific form of accommodation requested, along with any new information. The RAPM's reconsideration decision must be provided in writing

and include the justification for the decision and any possible alternatives. The reconsideration decision documentation should also include notification of the individual's rights (see Section 13: Notice of Rights).

#### 9.4. Special Considerations for Medical Documents:

9.4.1. Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential. This means that all medical information that the Agency obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's personnel file. This includes the fact that an accommodation has been requested or approved and information about functional limitations. It also means that any Agency employee who obtains or receives such information is strictly bound by these confidentiality requirements.

9.4.2. The RA staff may share certain information with an employee's supervisor or with other agency official(s) as necessary to make appropriate determinations on a reasonable accommodation request. Under these circumstances, the RAPM will inform the recipients of these confidentiality requirements. The information disclosed will be no more than is necessary to process the request. In certain situations, the RAPM will not necessarily need to reveal the name of the officer requesting an accommodation and/or the office in which the requestor works, or even the name of the disability.

In addition to the disclosures of information needed to process a request for accommodation, information pertinent to functional limitations may be shared in the following circumstances:

- Supervisors and managers are entitled to information regarding functional limitations—not medical information—that is necessary to implement restrictions on the work or duties of the officer or to provide a reasonable accommodation;
- CGHS and the Office of Security may be informed of and given medical information, when appropriate, for emergency treatment purposes or assistance in evacuation; and
- Government officials, such as those with the Equal Employment Opportunity Commission (EEOC) or Inspector General offices, may be provided with medical information where necessary to investigate the Agency's compliance with the Rehabilitation Act.

#### 9.5 Recordkeeping Requirements

9.5.1. The RA staff shall keep records documenting whether the Agency is complying with the nondiscrimination and affirmative action requirements imposed under Section 501 of the Rehabilitation Act of 1973, and shall make such records available to the EEOC upon the EEOC's request in a manner consistent with the National Security Act of 1947 and the Central Intelligence Agency Act of 1949. The RA staff shall record the following information in connection with a reasonable accommodation request: (1) the specific reasonable accommodation; (2) the job (occupational series, grade level, and agency component) sought by the requesting applicant or employee; (3) whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment; (4) whether the request was granted or denied; (5) the identity of the deciding official; (6) in the event a request is denied, the basis of the denial; and (7) the number of days taken to process the request. The RA staff shall maintain these records in accordance with the Privacy Act of 1974 and other applicable law.

## 10. Personal Assistance Services

10.1. Overview: Personal Assistance Services (PAS) are services that help individuals who, because of certain targeted disabilities, require assistance to perform basic activities of daily living, including, but not limited to, eating, changing clothes, and using the restroom. Medical conditions that could qualify an individual to receive PAS include missing limbs or paralysis due to spinal cord injury.

10.2. Eligibility: An individual is eligible for PAS services if:

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

10.3. Process for Requesting PAS: Employees may request PAS verbally or in writing to an MDO or to the RAPM through the internal RA database—similar to requests for all reasonable accommodations. Applicants for employment may advise their hiring POC or the Ability Talent Broker of their request for PAS, in addition to any request for reasonable accommodation. The process for requesting personal assistance services, the process for determining whether such services are required, and the CIA's right to deny such requests when provision of the services would pose an undue hardship, are the same as for reasonable accommodations.

10.4. PAS for Travel: In certain circumstances, when an employee is required to travel for official business, the Agency may pay travel, lodging, and per diem for a family member or Agency selected PAS as a reasonable accommodation.

## 11. Types of Reasonable Accommodations

11.1 The law does not require that the Agency create new positions or move employees from their jobs in order to create a vacancy. Examples of actions that may constitute a reasonable accommodation include (the following is not an exhaustive list):

- Making facilities readily accessible to and usable by a person with a disability.
- Job restructuring (does not include changing the essential duties of the position), including part-time or modified work schedules.
- Acquisition or modification of security-approved equipment or devices.
- Appropriate adjustment or modification of examinations (does not include changing the substance of examination questions).
- Provision of readers, sign language interpreters, PAS providers, and note takers.
- Accommodations for meetings, conferences, training, and seminars (e.g., interpreters, specific seating arrangements, tables that accommodate wheel chairs).
- Reassignment may include reassignment out of the current career service, as a last resort, if the Agency can identify an appropriate position.

11.2 Reassignment: Employees who cannot perform the essential functions of a job, with or without a reasonable accommodation, are not qualified for that job and should be considered for reassignment to a suitable vacant position as an accommodation. Although employees can apply to vacant positions, direct reassignment to a vacant position for which an employee is qualified—and not just permission to compete for such position—is a type of reasonable accommodation. The Agency must consider providing reassignment to a vacant position as a reasonable accommodation when it determines that no other reasonable accommodation will permit an employee with a disability to perform the essential functions of their current position.

11.2.1. A suitable vacant position should include component and matrixed positions at or below the employee's current grade, as well as those expected to become vacant in the following three months and that management plans to fill. The employee must be qualified for the position and be able to perform its essential functions with or without an accommodation.

11.2.2. If the home component is not able to identify an available and suitable reassignment, a review of all Agency positions should be conducted. This process should be chaired by the Deputy Chief of HR and include senior HROs from each component, as well as advisors from RAS, CGHS, and OGC/ALD.

11.2.3. Once a suitable vacant position is identified, the HRO(s) will arrange meetings with prospective managers. If the employee accepts a position in a different component identified through this process, he or she will become a member of the new component.

11.2.4. If no suitable position exists, the HRO(s) will provide written notification to the employee and review available options, such as immediate retirement,



eligibility to apply for medical disability retirement (MDR), or involuntary separation. Regarding MDR, the Board of Medical Examiners makes the actual approval or disapproval recommendation to OPR.

## 12. Decision Making Guidelines

12.1 Reasonable accommodation request must be made by an employee or applicant for employment. The Agency shall not make a specific accommodation for an applicant or employee until he/she has requested an accommodation.

12.2 An accommodation will be provided to enable qualified applicants with disabilities to be considered for positions that he/she desires, to enable qualified employees with disabilities to perform the essential functions of his/her position, and to enable employees with disabilities to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. The CIA does not provide personal use items used in accomplishing daily activities outside of the above parameters as a reasonable accommodation. For example, the Agency does not provide employees with personal use amenities such as prosthetic limbs, wheelchairs, eyeglasses, hearing aids, heating pads, or similar devices if those items are also needed outside of work. However, items that might otherwise be considered personal may be required as reasonable accommodations where they are specifically designed or required to meet job-related requirements or to enjoy the benefits and privileges of employment, as mentioned above.

12.3 Accommodations are determined on a case-by-case basis, taking into consideration the needs of the employee/applicant, his/her specific functional limitations, the essential functions of the position in question, the work environment, and the reasonableness and effectiveness of the proposed accommodation. If an employee/applicant is offered an accommodation, he/she is not required to accept.

12.4 MDOs shall consider the following criteria when deciding whether to approve a reasonable accommodation request:

- The essential functions of the particular job.
- The employee's/applicant's specific limitations and abilities.
- The accommodation necessary for the performance of essential job functions.
- The effectiveness of the proposed accommodation, if there is one.
- Whether the accommodation would allow the employee the opportunity to function, participate, or compete on an equal basis with co-workers.
- The effect the accommodation may have on the Agency's mission, security protocol, and the employee's job performance.
- Availability of alternatives that would accomplish the same purpose.
- The work environment.
- Whether the requested accommodation might result in undue hardship to the Agency.

12.5. Employees/applicants are entitled to effective and reasonable accommodations, but not necessarily entitled to the accommodation of his/her choice.

12.6. The Agency shall ensure that vacancy announcements, which are all posted in the CIA vacancy database, explain how applicants may request a reasonable accommodation if needed during the application process; such language would stipulate: "If you need a reasonable accommodation during the application process due to a disability, please contact the Reasonable Accommodations Staff."

## 13. Notice of Rights

13.1. The Agency is committed to ensuring that every officer has a workplace that is free of discrimination and harassment. If you have been denied reasonable accommodations, you have the right to file a complaint of discrimination pursuant to EEOC Regulations set forth at 29 CFR Part 1614.101 et seq. In order to preserve the full range of rights available to you under Federal law, you must make contact with an EEO counselor in the Office of Equal Employment Opportunity (OEEO) within 45 days of the date you were notified of the denial of the reasonable accommodation, or from the date of the matter alleged to be discriminatory.

13.2. In addition to the reconsideration process outlined in Section 8.5, employees have the voluntary option to use the Alternative Dispute Resolution process to resolve any disputes involving their request for reasonable accommodation.

13.3. These Procedures create no new enforceable rights under Section 501 of the Rehabilitation Act, any other law, or the collective bargaining agreement. Executive Order 13164, which requires all Federal agencies to adopt reasonable accommodation procedures, explains in section 5(b) that the procedures are "intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, [or] its agencies."

## 14. References

Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 791). Prohibits discrimination in employment within federal executive branch agencies in the hiring, placing, and advancing of individuals with disabilities.

Americans with Disabilities Act (ADA) Amendments Act of 2008 (42 U.S.C. § 12101). Re-emphasizes the prohibition of discrimination against individuals with disabilities and further defines disability and other terms used in Section 501 of the Rehabilitation Act of 1973.

U.S. Equal Employment Opportunity Commission (EEOC) Regulations at 29 CFR Part 1614 (Federal Sector Equal Employment Opportunity), amended January 3, 2017, and Parts 1630, 1635, 1640 and 1641. Establishes the rules and procedures for federal executive branch agencies to create and maintain equal employment opportunity complaint processing procedures and affirmative employment programs, and establishes requirements for federal agencies to provide personal assistance services to employees who require such accommodations for employment.

Genetic Information Non-discrimination Act of 2008. Prohibits employers and other entities covered by GINA from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by *this* law.

Executive Order 13145 To Prohibit Discrimination in Federal Employment Based on Genetic Information. Prohibits federal executive branch agencies from discriminating against applicants and employees on the basis of genetic information.

Privacy Act of 1974 (5 U.S.C. § 552a). Addresses the government's requirements when maintaining, collecting, using, or disseminating Privacy Act records, which may include medical documentation.

Equal Employment Opportunity Commission (EEOC) Management Directive 715. Provides policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity and equal access for all employees.

For additional information, please visit [www.eeoc.gov](http://www.eeoc.gov), to find a variety of guidance documents, fact sheets, and other publications on reasonable accommodations in the workplace,