

**HRSA POLICIES AND PROCEDURES
FOR PROCESSING REASONABLE
ACCOMMODATION REQUESTS
FOR INDIVIDUALS WITH DISABILITIES**

OFFICE OF EQUAL OPPORTUNITY AND CIVIL RIGHTS

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I. HRSA Policy on Reasonable Accommodation

It is the policy of the Health Resources and Services Administration (HRSA) in the Department of Health and Human Services to fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973. Under the law, **Federal** agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship. **HRSA** is committed to providing reasonable *accommodation* to its employees and applicants for employment in order to assure that individuals with disabilities enjoy full access to equal employment opportunity at HRSA. HRSA provides reasonable *accommodation*:

- when an applicant with a disability needs an accommodation in order to be considered for a job;
- when an employee with a disability needs an accommodation to enable him or her to perform the essential functions of the job or to gain access to the workplace; and
- *when* an employee with a disability needs an accommodation to enjoy equal benefits and privileges of employment.

HRSA will process requests for reasonable accommodation and, where appropriate, provide reasonable *accommodation* in a prompt, fair and efficient manner. In order to effectuate this policy, HRSA has included in the budget allowance for each Bureau adequate funds to cover funding for reasonable *accommodation*. In addition, the HRSA Disability Program Manager in the Office of Equal Opportunity and Civil Rights (OEOCR) has been *given* agency-wide responsibility for the program.

Employees may refer to the Equal Employment Opportunity Commission's "Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act" for additional information on the rights and responsibilities of applicants and employees requesting reasonable accommodation, and the responsibilities of HRSA personnel involved in responding to those requests.

Reasonable accommodation procedures for HRSA are designed to expand employment opportunities for people with disabilities, not to create new bureaucratic requirements. The Rehabilitation Act of 1973, as Amended, requires that agencies provide reasonable accommodation to disabled individuals absent undue hardship. Executive Order 12164 provides substantial leeway in the ways in which reasonable accommodation requests may be made and processed.

There are three categories of reasonable accommodation:

- modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job;

- modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job; or
- modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges.

II. Initiating the Reasonable Accommodation Process

A 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 s/he chooses, even if s/he has not previously disclosed the existence of a disability.

Any HRSA employee or applicant may consult the HRSA Disability Program Manager for further information or assistance in connection with initiating a request for reasonable accommodation.

- An employee must request a reasonable accommodation orally or in writing from his/her immediate supervisor, another supervisor or manager in his/her immediate chain of command or through the *HRSA* Disability Program Manager.
- *To minimize vagueness, requests should contain, at a minimum*, the name of the person seeking reasonable accommodation, an address and telephone number where the person may be contacted if additional information is needed, a statement of the adjustment or modification needed and, if possible, what the person believes would constitute a reasonable accommodation to the request. Forms are available for this purpose and *may be obtained from* HRSA's OEOCR (see **Appendix A**). *Because the HRSA Disability Program Manager (deleted OEOCR because it's already spelled out on page 2)* is required to monitor, track and report on all reasonable accommodation requests, all requests should be reported to this individual. *(note that I revised this paragraph)*
- An applicant may request a reasonable accommodation orally or in writing from any HRSA employee with whom the applicant has contact in connection with the application process. The Office of Human Resources and Development (OHRD) is responsible for training staff involved in the application process to recognize requests for reasonable accommodation and to handle them appropriately. Field office managers also should ensure that all staff having contact with an applicant *know* how to recognize and handle requests for reasonable accommodation.
- A family member, health professional, or other representative may request an

accommodation on behalf of *a* HRSA employee or applicant. The request should *be directed* to one of the same individuals to whom the employee or applicant would *submit* the request. *HRSA shall confirm the request for reasonable accommodation with the individual with the disability.*

III. Processing the Request for Reasonable Accommodation

As the first step in processing a request for reasonable accommodation, the HRSA staff member *receiving* the request must determine who will be responsible for handling it and forward *the request*, if necessary. *The staff member should follow the instructions below to determine who should receive the request.* The individual *assigned* to handle the request for accommodation will be referred to as the "decision maker."

The request should be forwarded to the appropriate person as soon as possible but *within* five (5) business days. All referrals must be sent to the *supervisor* of the employee requesting the accommodation. If the person receiving the request is also the *decision maker*, s/he should promptly notify the Executive Officer that the request has been made.

The next step is for the parties to begin the interactive process to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation and the HRSA decision maker must talk to each other about the request, the process for determining whether an accommodation will be provided, and potential accommodations.

Communication is a priority throughout the entire process. The HRSA *decision maker* will consult appropriate resources for assistance. The employee requesting the accommodation should also participate to the extent possible in helping to identify an effective accommodation. Resources *that* are available to help both the *decision maker* and the individual requesting the accommodation *in identifying* possible accommodations are listed in **Appendix B**. The *HRSA* Disability Program Manager is also available to provide assistance.

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 are not necessary.* Even so, the *decision maker* and requesting individual should talk to each other to *ensure* that there is a full exchange of relevant information.

IV. Medical Information

The employee or applicant is responsible for providing appropriate medical information related to the functional impairment at issue and the requested accommodation where the disability and need for accommodation is not clearly obvious.

HRSA may request relevant supplemental medical documentation if the initial information submitted by the person making the request for reasonable accommodation does not clearly explain the nature of the disability, the need for reasonable *accommodation*, or fails to clarify how the requested accommodation will assist the person *in performing* the essential functions of the job or *enjoying* the benefits and privileges of the workplace. The supervisor/management representative must inform the employee that the medical information may be reviewed by Federal Occupational Health doctors as necessary.

As required by the Rehabilitation Act of 1973, as Amended, all medical information shall be kept confidential and separate from the individual's personnel file. The supervisor must forward all medical information to OEOCR to be kept in a locked file maintained by the *HRSA* Disability Program Manager in order to maintain confidentiality.

V. Assistive Technology

*To request adaptive equipment, including information technology and communications equipment, employees should first contact "The Computer/Electronic Accommodations Program" (CAP) directly at cap@tma.osd.mil. Employees will be required to file out an on-line form that requires their supervisor's concurrence. The *HRSA* Disability Program Manager is available to coordinate these efforts.*

VI. Reassignment

Reassignment is a form of reasonable accommodation that may be provided, absent undue hardship, to an employee who, because of a disability, can no longer perform the essential functions of the position, with or without reasonable accommodation. Reassignment is a "last resort" accommodation that must be considered if there is no other effective accommodation(s) that would enable the employee to perform the essential functions of the current job, or if all other possible accommodation(s) would impose an undue hardship on the organization.

In considering *possible* positions available for reassignment, the *HRSA* Disability Program Manager will work with both the Office of Human Resources Development and the individual requesting the accommodation to identify: (1) all vacant positions within the agency for which

the employee may be qualified, with or without reasonable accommodation; and (2) all positions if known, which OHRD has reason to believe will become vacant over the *subsequent 60* business days and for which the employee may be qualified.

VII. Denial of Reasonable Accommodation

All denials of requests for reasonable accommodation must be provided in writing to the person making the request with the reason(s) for denial as specific as possible. The denial should be written in plain language with as much specificity as possible, and should identify the deciding official by name and title and/or the office that issued the decision.

When management denies a specific reasonable accommodation and offers to substitute a different accommodation, the denial response should explain the reason for the denial and provide an explanation as to why the substitute accommodation will be as effective as the requested accommodation.

VIII. Utilization of the Alternative Dispute Resolution and EEO Discrimination Complaint Processes

In those instances when a request for reasonable accommodation is denied, the individual *who* made the request must be informed of the availability within HRSA of the Alternative Dispute Resolution (ADR) processes to allow prompt reconsideration of the denial. *Additionally, the individual must also be informed of his/her right to utilize the discrimination complaint process, and provided with time limits and appropriate points of contact in order to initiate the complaint in a timely manner.*

APPENDIX A

**HRSA CONFIRMATION OF REQUEST
FOR REASONABLE ACCOMMODATION**

1.

Applicant/Employee Name

Phone Number

Today's Date

Applicant/Employee Office

Date of Request

2. ACCOMMODATION REQUESTED

(Be as specific as possible, e.g., adaptive equipment, reader, interpreter.)

3. REASON FOR REQUEST

(If accommodation is time sensitive, please explain.)

RETURN FORM TO DISABILITY MANAGER (6-105)

WHO WILL ASSIGN NUMBER

(Note: Should you provide a FAX number here?)

4. LOG NO.: _____

APPENDIX B

SELECTED REASONABLE ACCOMMODATION RESOURCES

U.S. Equal Employment Opportunity Commission

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

The EEOC's Publication Center has many free documents on the Title I employment provisions of the *Americans with Disabilities Act*, including both the statute, 42 U.S.C.12101 et seq. (1994), and the regulations, 29 C.F.R. 1630 (1997). In addition, the EEOC has published a *large volume* of basic information about *reasonable* accommodation and undue hardship. The two main sources of interpretive information are: (1) the Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. 1630.2(o), (p), 1630.9 (1997), and (2) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act III, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The Manual includes a 200-page Resource Directory, including *Federal* and state *agencies* and disability organizations that can provide assistance in identifying and locating reasonable accommodations.

The EEOC also has discussed issues involving reasonable accommodation in the following guidance and documents: (1) Enforcement Guidance: Preemployment 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).

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>.

Office of Equal Opportunity and Civil Rights (HRSA)

Disability Program Manager **301-443-3619**

TTY **301-443-1866**

Job Accommodation Network (JAN)

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

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

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

ADA Disability and Business Technical Assistance Centers (DBTACs)

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

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

Registry of Interpreters for the Deaf

301-608-0050 (Voice/TT)

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

RESNA Technical Assistance Project

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

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

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

Services may include:

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