

DLMS 6 - Employee Relations

DLMS 6-200: Reasonable Accommodations for Employees and Applicants

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200 Procedures Governing the Provision of Reasonable Accommodations for Employees and Applicants with Disabilities

201 Policy

As the U.S. government's leader for disability employment policy, the U.S. Department of Labor (DOL) is committed to meeting or exceeding our responsibilities to support employees with disabilities, including providing effective reasonable accommodations. In addition, DOL encourages the use of resources and tools such as the Employer Assistance & Resource Network on Disability Inclusion (EARN), the Job Accommodation Network (JAN), the U.S. Department of Defense's Computer/Electronic Accommodations Program (CAP), and DOL's own Office of Disability Employment Policy (ODEP), to help identify and procure reasonable accommodations for applicants and employees with disabilities. See Section 205(B)(2) of this Chapter for resource information.

The duty of federal employers to provide reasonable accommodations is a fundamental statutory requirement under the Rehabilitation Act. The Rehabilitation Act uses the standards set under Title I of the Americans with Disabilities Act of 1990. [\(1\)](#) Although many individuals with disabilities can apply for and perform jobs without any reasonable accommodations, there are workplace barriers that may keep others from seeking and performing jobs they could do with some form of accommodation. These barriers may be physical obstacles (such as inaccessible facilities or equipment); they may be procedures or rules (such as rules concerning when work is performed, when breaks are taken, or how job tasks are performed); or they may be the result of inaccessible technology. Reasonable accommodations are essential in minimizing or eliminating workplace barriers for individuals with disabilities.

This policy sets forth roles and responsibilities within DOL with respect to reasonable accommodations and provides examples of the types of accommodations that are appropriate and generally will be provided to DOL employees and applicants with disabilities, in accordance with related DOL procedures and instructions. The examples of accommodations identified in this policy are not exhaustive; instead, they illustrate the broad spectrum of accommodations that may be provided. Reasonable accommodations must be provided to qualified employees regardless of whether they work full-time or part-time, or are considered probationary.

To determine an effective reasonable accommodation, it is DOL's policy that management must participate in an interactive process when a request, either verbal or written, is made by an employee for a reasonable accommodation, and make efforts to resolve requests for accommodations through this interactive process whenever possible. If needed or desired, employees may designate a representative, advocate, physician, union steward, relative, etc., to request an accommodation or otherwise participate in the accommodation process. Bargaining unit employees have the right to include their Union Steward in the process. Employees and job applicants who make requests for accommodations are expected to fully cooperate in the interactive process to ensure that effective and appropriate accommodations are provided.

202 Purpose

These procedures implement Executive Order 13164 (July 26, 2000), which instructs Federal agencies, including DOL, to “establish effective written procedures for processing requests for reasonable

accommodation by employees and applicants with disabilities.” These procedures supersede all prior DOL policies on reasonable accommodation.

Nothing in these procedures shall be construed as creating any legal rights for DOL applicants or employees beyond the rights such persons may have under the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 701 *et seq.*). These procedures are intended to provide guidance for the implementation of the Department's obligations under the Rehabilitation Act. All dates and time periods are to be reasonably interpreted and applied.

The Inspector General Act of 1978 (IG Act), as amended, established an Office of Inspector General (OIG) within the DOL. The Inspector General has the powers, duties, and responsibilities with respect to DOL and its programs and operations, as granted under the IG Act. Nothing in this Chapter shall contravene nor interfere with the authorities and responsibilities granted to the OIG by the IG Act, or delegations of authority and assignment of responsibilities defined by Secretary's Order 04-2006.

203 Key Terms

This section provides “plain language” definitions of the key legal terms defined in the Rehabilitation Act (29 U.S.C. § 29 U.S.C. § 701 *et seq.*), and the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101, *et seq.*), as amended by the ADA Amendments Act of 2008 (ADAAA). These laws state that DOL must provide “reasonable accommodations” to a “qualified individual” with a “disability” who is an applicant or employee, unless the accommodation would impose an “undue hardship” on DOL. Each of the key terms listed here in quotation marks is explained in this section: reasonable accommodations, qualified individual, disability, and undue hardship. This section is not intended to change the meanings assigned to these statutory terms. Persons seeking further explanation of these terms should consult the Equal Employment Opportunity Commission's (EEOC's) “Final Regulations to Implement the ADAAA,” 29 C.F.R. Part 1630. *See also* [Fact Sheet on the Equal Employment Opportunity Commission's \(EEOC\) Final Regulations Implementing the ADAAA](#).

- A. **Reasonable Accommodation.** Any change in the work environment or in the way things are usually done that enables a qualified individual with a disability to participate in the application process, to perform the essential functions (or fundamental duties) of a job, or to enjoy equal benefits and privileges of employment that are available to individuals without disabilities. While there are some things that are not considered reasonable accommodations (e.g., removal of an essential job function or lower production standards), reasonable accommodations can cover most things that enable an individual to apply for a job, perform a job, or have equal access to the workplace and employee benefits and privileges. An accommodation may be effective in producing the desired result even if it is not the employee/applicant's accommodation of choice. An effective accommodation need not be the most expensive, nor must it be exactly what the employee/applicant requests.
 1. Common types of accommodations may include:
 - a. Modifying work schedules or supervisory methods (such as providing assignments verbally and in writing);
 - b. Granting breaks or providing leave;

- c. Altering how or when job duties are performed;
- d. Removing and/or substituting marginal functions;
- e. Moving to different office space;
- f. Providing telework beyond that provided by the applicable collective bargaining agreement, DOL policy, or the relevant Memorandum of Understanding (MOU);
- g. Making changes to particular workplace policies;
- h. Providing assistive technology including information technology, communications equipment, or specially designed furniture;
- i. Providing a reader or other staff assistant to enable employees to perform their job functions;
- j. Making facilities accessible by, for example, installing a ramp or grab bars;
- k. Providing accessible parking;
- l. Providing materials in alternative formats, such as Braille; and
- m. Providing a reassignment to another job, as described in Section 205(F)(3) of this Chapter, as an accommodation of last resort.

2. Here are examples of several modifications or adjustments that are not considered to be “reasonable” and therefore do not need to be made by the agency under the reasonable accommodation requirements:

- a. Eliminating, reassigning or having others perform essential functions (i.e., fundamental duties of the position);
- b. Lowering production/performance standards (qualitative or quantitative) that are applied uniformly to employees with and without disabilities (though a reasonable accommodation should be provided to enable an employee with a disability to meet a production standard);
- c. Creating a new job position;
- d. Allowing or ignoring inappropriate conduct; and
- e. Providing personal use items needed to accomplish daily activities both on and off the job such as prosthetic limbs, wheelchairs, eyeglasses, hearing aids or similar devices also needed off the job.

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

C. **Essential functions.** The fundamental job duties of the employment position an individual holds or desires. The term “essential functions” does not include the marginal functions of the position.

1. A job function may be considered essential for any of several reasons, including but not limited to the following:
 - a. The function may be essential because the reason the position exists is to perform that function;
 - b. there are a limited number of employees available among whom the performance of that job function can be distributed; and/or
 - c. the function may be highly specialized so that the incumbent in the position is hired for the incumbent's expertise or ability to perform the particular function.
2. Evidence of whether a particular function is essential includes, but is not limited to:
 - a. The employer's judgment as to which functions are essential;
 - b. Written job descriptions prepared before advertising or interviewing applicants for the job;
 - c. The amount of time spent on the job performing the function;
 - d. The consequences of not requiring the incumbent to perform the function;
 - e. The terms of a collective bargaining agreement;
 - f. The work experience of past incumbents in the job; and/or
 - g. The current work experience of incumbents in similar jobs.

D. **Disability.** A “physical impairment” or “mental impairment” that “substantially limits” one or more of the “major life activities” of an individual; a record (or past history) of such impairment; or being regarded as having a disability. This should be construed broadly and the determination of whether an individual has a disability should not require extensive analysis. Each of the aforementioned key terms is explained below.

1. “Physical impairment” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine.
2. “Mental impairment” means any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
3. “Substantially limits” – An impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general

population. An impairment need not significantly or severely restrict or prevent the individual from performing a major life activity in order to be considered substantially limiting. Nonetheless, not every impairment will constitute a disability. "Substantially limits" should not demand extensive analysis. The determination of whether an impairment substantially limits a major life activity requires an individualized assessment. However, in making this assessment, the term "substantially limits" shall be interpreted and applied to require a degree of functional limitation that is lower than the standard for "substantially limits" applied prior to the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. Multiple impairments that combine to substantially limit one or more of an individual's major life activities also constitute a disability. The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures (such as medication, prosthetics, or psychotherapy).

4. "Major life activities" include but are not limited to:
 - a. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
 - b. The operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- E. **Undue Hardship.** Denial of a request for a reasonable accommodation may be justified if providing that accommodation would pose undue hardship to DOL.
 1. In determining undue hardship, the following factors should be considered:
 - a. The nature and cost of the accommodation needed;
 - b. The employer's overall size, financial resources, number of employees, and type and location of facilities;
 - c. The type of operation of the employer, including the structure and functions of the workforce, and the geographic separateness, and the administrative or fiscal relationship to the employer of the facility involved in making the accommodation; and
 - d. The impact of the accommodation on the operation of the facility including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

NOTE that in determining whether an accommodation is too costly, it is necessary to consider the overall financial resources (budget) of DOL, and not simply the resources of the facility or sub-agency in question.

2. An undue hardship determination does not include making a cost-benefit analysis to assess the cost of a reasonable accommodation in relation to the perceived benefit to DOL and the employee. Whether the cost of a reasonable accommodation imposes an undue hardship depends on DOL's resources, not on the individual's salary, position or status (e.g., full-time versus part-time, salary versus hourly wage, permanent versus temporary); and
3. While the DOL favors granting reasonable accommodations, a determination of undue hardship must always be made on a case-by-case basis.

204 Responsibilities of Participants in the Reasonable Accommodation Process

- A. **Director of the Civil Rights Center.** The Director of the Civil Rights Center (CRC) in the Office of the Assistant Secretary for Administration and Management (OASAM) is responsible for:
 1. Providing direction, training, and guidance on the implementation of this Chapter;
 2. Managing the Reasonable Accommodation Resource Center. Designating a Disability Program Coordinator (DPC). Receiving and recording all reasonable accommodation requests. Advising Workplace Equality Compliance Officers and Deciding Officials on providing accommodations. Providing needs assessments to determine effective accommodations. After an accommodation is provided, monitoring it for effectiveness;
 3. Serving as DOL's liaison with the U.S. Department of Health and Human Services' Program Support Center (PSC) (formerly known as Federal Occupational Health), which can provide medical review and suggest possible accommodations;
 4. Maintaining summary statistics on accommodations in accordance with Section 209 of this Chapter;
 5. Managing DOL's Centralized Accommodation Fund (CAF), a fund that can be used to purchase reasonable accommodations (such as assistive technology and ergonomic equipment) for DOL employees or applicants with disabilities;
 6. Processing reasonable accommodation requests that include items purchased using CAF;
 7. Maintaining confidentiality of records as required by the Rehabilitation Act and the ADA, and as described in Section 205(D) of this Chapter; and
 8. Making delegations of the authority and assignments of the responsibility for participants in the reasonable accommodation process, as appropriate.
- B. **Employees and Applicants with Disabilities.** A DOL employee or applicant with a disability who desires an accommodation is responsible for:
 1. Requesting an accommodation;
 2. Completing a Confirmation of Request for Reasonable Accommodation form ([Appendix A](#)) as described in this Chapter; and

3. Participating in good faith with DOL officials in the mandatory interactive process to assess what accommodation can be provided, including promptly providing a limited medical release ([Appendix C-1](#) or [C-2](#)) and/or medical documentation, as described in Section 205(C), when requested. These forms can be found on LaborNet and can be provided to the employee or applicant by the Deciding Official, the agency's WECO, the servicing human resources office, CRC, a management official, or any agency employee connected with the job application process.
- C. **Deciding Official.** Typically the first-line supervisor/manager. The Deciding Official is responsible for:
1. Providing information and forms to employees and applicants requesting accommodations or referring the employee to the CRC and Agency Workplace Equality Compliance Officer to obtain such information and forms;
 2. Participating in good faith in the mandatory interactive process when an employee or applicant requests a reasonable accommodation, as described in Section 205(B) of this Chapter;
 3. Documenting requests for accommodation and the action taken;
 4. Reporting all requests for reasonable accommodation to CRC and the Agency Workplace Equality Compliance Officer within two (2) business days of receiving the request;
 5. Consulting with the servicing human resources office when accommodation requests involve performance, conduct, or leave issues; reallocation of tasks; reassignment; revision of standards; telework; or other scheduling adjustments;
 6. Rendering decisions on certain accommodation requests, in accordance with Section 206 of this Chapter after consulting CRC, the Workplace Equality Compliance Officer and/or SOL; and
 7. Maintaining confidentiality of records as required by the Rehabilitation Act and the ADA, and as described in Section 205(D) of this Chapter.
- D. **DOL Agency Workplace Equality Compliance Officers (“WECO”).** Officials who are responsible for their agency's overall equal employment opportunity program and advising agency managers on such issues, including reasonable accommodation. Each DOL Agency has a WECO; contact information can be found at [Workplace Equality Compliance Officers](#) webpage. The WECO assigned to each DOL Agency is responsible for:
1. Providing information and forms to employees and applicants requesting accommodations and informing CRC of the request within two (2) business days;
 2. Processing reasonable accommodation requests that involve performance, conduct, or leave issues; reallocation of tasks; reassignment; revision of standards; telework; or other scheduling adjustments, after consultation with the servicing human resources office;

3. Consulting with and advising Deciding Officials throughout the interactive process and bringing together other parties as described in Section 205(B);
 4. Working with CRC to provide direction, training, and guidance on the implementation of this Chapter and maintaining summary statistics on accommodations by agency in accordance with Section 209 of this Chapter; and
 5. Maintaining confidentiality of records as required by the Rehabilitation Act and the ADA, and as described in Section 205(D) of this Chapter.
- E. **Agency Heads.** The official in charge of each DOL Agency is responsible for:
1. Ensuring that Deciding Officials receive training on this Chapter, including training provided by the CRC and WECOs;
 2. Ensuring full and prompt cooperation by the agency with implementing and processing reasonable accommodation requests under this Chapter;
 3. Providing sufficient agency funds and other resources to ensure effective implementation of this Chapter, such as payment for: medical review by the U.S. Department of Health and Human Services' Program Support Center (PSC) (formerly known as Federal Occupational Health), contribution to the Working Capital Fund for CAF, and providing accommodations with a cumulative cost under \$250; and
 4. Making delegations of the authority and assignments of the responsibility for participants in the reasonable accommodation process, as appropriate.
- F. **Servicing Human Resources Office.** Every servicing human resources office is responsible for:
1. Ensuring job vacancy announcements include a notice to applicants on how to request reasonable accommodations;
 2. Reporting all requests for reasonable accommodation from applicants to CRC and the Agency WECO within two (2) business days of receiving the request and gathering input from CRC or the WECO, as necessary;
 3. Identifying vacant positions for which an employee is qualified in cases where reassignment is being considered as a possible reasonable accommodation;
 4. Forwarding the "Agency Certification of Reassignment and Accommodation Efforts" (ACRAE) package to the WECO when an employee requests disability retirement;
 5. Providing CRC or the WECO with an employee/applicant's Schedule A documentation if needed per Section 205(C); and
 6. Serving as a primary expert resource to CRC, agency WECOs, and Deciding Officials when an accommodation request is complicated by performance, conduct, or leave issues; a worker's compensation claim; or involves reallocation of tasks, telework, reassignment, revision of standards, or other adjustments ordinarily accomplished with the assistance of human resources staff.

G. **Director of the Human Resources Center, OASAM.** The Director of the Human Resources Center, Office of the Assistant Secretary for Administration and Management (OASAM), shall be responsible for:

1. Reviewing an agency's unsuccessful attempts at intra-agency reassignments;
2. Conducting and/or delegating to regional human resources offices inter-agency searches for possible reassignments;
3. Reassigning employees across agencies (except to/within the Office of Inspector General);
4. Managing DOL's Sign Language Interpreting Office;
5. If additional assistance is needed after consultation with the servicing human resources office, participating in and facilitating meetings with WECOs and Deciding Officials when reasonable accommodation requests are complicated by performance, conduct, or leave issues; a worker's compensation claim; or involve reallocation of tasks, revision of standards, or other adjustments ordinarily accomplished with the assistance of human resources staff; and
6. Making delegations of the authority and assignments of the responsibility for participants in the reasonable accommodation process, as appropriate.

H. **Office of the Solicitor (SOL).** SOL is responsible for providing legal guidance to the Agency WECOs, CRC, Deciding Officials, HR staff, HRC's Office of Employee Labor Management Relations (OELMR), and other agency designated officials regarding reasonable accommodation issues when requested. The Office of the Inspector General's (OIG) Office of Legal Counsel is responsible for providing legal guidance to its WECO and its Deciding Officials when requested. The reference to "SOL" throughout this chapter refers to OIG Legal Counsel when the reasonable accommodation request is made by an applicant for an OIG position or by an OIG employee.

205 Processing Reasonable Accommodation Requests

DOL will process requests for reasonable accommodation, and will provide reasonable accommodations where appropriate, in a prompt and efficient manner in accordance with these procedures.

A. Requesting an Accommodation

1. When an employee or applicant decides to request an accommodation, the individual or the individual's representative must let DOL know that the employee/applicant needs an adjustment or change at work for a reason related to a medical condition. An employee/applicant can make a reasonable accommodation request to a Deciding Official, the agency's WECO, the servicing human resources office, CRC, a management official, or any agency employee connected with the job application process. To request an accommodation, an individual may use "plain language" and need not mention the Americans with Disabilities Act, the Rehabilitation Act or use the phrase "reasonable accommodation." An employee/applicant may verbally request a reasonable

accommodation, but should confirm the request using the Confirmation of Reasonable Accommodation Request form ([Appendix A](#)). This policy is not intended to limit any rights that the employee or applicant may have under the Rehabilitation Act.

2. Accommodation requests made to the Deciding Official, WECO, servicing human resources office, any management official, or any agency employee connected with the job application process must be immediately forwarded to the CRC (within two (2) business days) for intake and tracking. Requests can be sent to CRC at rarc.info@dol.gov, phone 202-693-6500, fax 202-693-6505, TTY 800-877-8339, or video relay 877-709-5797. The “submit” button at the bottom of the Appendices sends the form to rarc.info@dol.gov. CRC will distribute requests for processing as described in Section 205(F). This will enable the CRC to assist in monitoring requests, providing guidance, and ensuring that the procedures are handled efficiently and effectively.

B. The Interactive Process

1. The interactive process is an informal process to clarify what the individual needs and identify the appropriate effective reasonable accommodation(s). After an employee/applicant requests a reasonable accommodation, the next step is for the employee/applicant, the Deciding Official, the WECO, and the CRC to begin the interactive process. The purpose of the interactive process is to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation must communicate with the appropriate persons throughout the entire process, but particularly where:
 - a. The specific limitation or barrier is unclear;
 - b. An effective accommodation is not obvious;
 - c. The parties are considering different forms of reasonable accommodation; or
 - d. The current accommodation is no longer effective and another effective accommodation must be identified.
2. The individual making the request, and the Deciding Official, CRC and/or the WECO should work together during the interactive process to identify effective accommodations. Suggested resources for identifying accommodations include:
 - a. U.S. Department of Labor's Office of Disability Employment Policy (ODEP), which develops and influences policies and practices that increase the number and quality of employment opportunities for people with disabilities, www.dol.gov/odep.
 1. ODEP's Job Accommodation Network (JAN) can suggest possible reasonable accommodations, www.askjan.org;
 2. ODEP's Employer Assistance & Resource Network on Disability Inclusion (EARN), which provides resources to help employers recruit, hire, retain and advance individuals with disabilities, www.askearn.org;

- b. ADA National Network, which provides resources on the Americans with Disabilities Act, www.adata.org;
 - c. CRC's [Reasonable Accommodation Resource Center](#), which can provide needs assessments and purchase items, such as specific types of assistive technology/software, using DOL's Centralized Accommodation Fund;
 - d. DOL's Office of Worker Safety and Health, which can provide ergonomic assessments to help facilitate the interactive process by identifying specific types of furniture/equipment, [Safety & Health Managers](#); and
 - e. The U.S. Department of Defense Computer Electronic/Accommodations Program (CAP) provides suggestions for assistive technology. CAP can provide assessments and items, www.cap.mil. All DOL employee/applicant requests for items from CAP must go through CRC.
3. The Deciding Official, CRC and/or WECO will contact the applicant or employee within four (4) business days after the accommodation request is received by the Deciding Official, CRC, or WECO to begin discussing the request.
4. When a third party (e.g., an individual's doctor, family member, friend) requests an accommodation on behalf of an applicant or employee, CRC and/or the WECO should, if possible, confirm with the applicant or employee that they want a reasonable accommodation before proceeding. Where this is not possible, for example, because the employee has been hospitalized in an acute condition, the Deciding Official, in consultation with the CRC and/or the WECO, will process the third party's request if it seems appropriate and will consult directly with the individual needing the accommodation as soon as practicable.
5. CRC and/or the WECO may need to consult with other DOL personnel (e.g., information technology staff, facilities management) or outside sources to obtain information necessary to make a determination about the request. Such agency personnel must respond quickly to the CRC and/or the WECO's request for information and assistance so as to not cause an undue delay in providing the accommodation.
6. An effective accommodation need not be the most expensive, nor must it be exactly what the employee/applicant requests. Employees who request reasonable accommodations are expected to cooperate in good faith in providing the information necessary to assess the request throughout the interactive process. Employees who fail to engage in the interactive process may risk being provided with ineffective accommodations or having their request denied due to lack of information needed to make a proper determination.
7. When an employee has already requested a reasonable accommodation, the Deciding Official may initiate the interactive process with the employee when performance and/or conduct issues arise. Once an employee is on the job, the employee's actual performance is the best measure of ability to do the job. When a need arises to question the ability of an employee to do the essential functions of the job it may be

job-related and consistent with business necessity for the Deciding Official (after consulting with the WECO, CRC, and/or the servicing human resources office) to make disability-related inquiries. This may include when:

- a. The Deciding Official (in consultation with the WECO, CRC, and/or the servicing human resources office) has a reasonable belief, based on objective evidence, that an employee's ability to perform essential job functions will be impaired by a medical condition. This may include when the Deciding Official knows about a particular employee's medical condition, has observed performance problems, and reasonably can attribute the problems to the medical condition based on objective evidence.
 - b. If an employee states that the disability is the cause of a performance problem, the Deciding Official could follow up by making clear what level of performance is required and ask the employee why they believe the disability is affecting performance. In this instance, if the employee does not ask for an accommodation (the obligation generally rests with the employee to ask), the Deciding Official may ask whether there is an accommodation that may help raise the employee's performance level.
 - c. When an employee requests a reasonable accommodation in response to the Deciding Official's discussion or evaluation of the person's performance, the Deciding Official may proceed with the discussion or evaluation but also should begin the interactive process by discussing with the employee how the disability may be affecting performance and what accommodation the employee believes may help to improve it.
8. It is expected that the CRC and/or WECO will work closely with the Deciding Official in responding to the reasonable accommodation request, including gathering relevant information to respond to a request and to assess whether a particular accommodation will be effective.

C. Requests for Medical Information

1. In determining whether medical documentation is necessary to support a request for reasonable accommodation and whether an applicant or employee has a disability, CRC and/or the WECO will construe the definition of "disability" broadly, consistent with the ADA Amendments Act of 2008. Further, the determination of whether an individual has a "disability" generally should not require extensive analysis. Notwithstanding, CRC and/or the WECO may require medical information in order to assist in the design of an appropriate and effective accommodation. If an employee's/applicant's current disability and/or need for accommodation are not obvious or already known, or more information is needed to assist in identifying an effective accommodation, DOL is entitled to ask the employee or applicant to arrange for DOL to receive medical documentation. This can include the employee or applicant arranging for DOL to receive medical information showing that the employee/applicant has a covered disability that requires accommodation, and the manner in which the accommodation will address the

limitations of the disability and enable the employee/applicant to perform the essential functions of the position. A disability is obvious or already known when it is clearly visible or the individual previously provided medical information, such as a Schedule A letter, showing that the condition met the definition of disability. It is the responsibility of the applicant/employee to provide appropriate medical information requested by DOL where the current disability and/or need for accommodation are not obvious or already known.

2. CRC and/or the WECO may determine, including in response to a request from the Deciding Official, that medical information is needed and may request such information from the employee/applicant and/or the appropriate health professional. This determination will be made on an individualized, case-by-case basis. CRC and/or the WECO may request documentation describing the impairment; the nature, severity, and duration of the impairment; the activity or activities that the impairment limits; the extent to which the impairment limits the employee's ability to perform the activity or activities; and/or the nexus between the impairment and the requested accommodation. Even if medical information is needed to process a request, CRC and/or the WECO do not necessarily have to request medical documentation from a health care provider; in many instances the employee/applicant may be able to provide sufficient information that can substantiate the existence of a "disability" and/or need for a reasonable accommodation. If an individual has already submitted medical documentation in connection with a previous request for accommodation or a Schedule A letter, the individual should immediately inform CRC and/or the WECO of this fact. CRC and/or the WECO will then determine whether additional medical information is needed to process the current request.
3. If the initial information provided by the health professional or volunteered by the employee/applicant is insufficient to enable CRC and/or the WECO to determine whether the individual has a "disability" and/or that an accommodation is needed, CRC and/or the WECO will explain what additional information is needed. If necessary, the employee/applicant should then ask the individual's health care provider or other appropriate professional to provide the missing information. CRC and/or the WECO may also give the individual a list of questions to give to the health care provider or other appropriate professional to answer. If sufficient medical information is not provided by the individual after several attempts, CRC and/or the WECO may ask the individual requesting accommodation to sign a limited release ([Appendix C – 1](#)). The WECO or CRC may have the medical information reviewed by the U.S. Department of Health and Human Services' Program Support Center (PSC) at the agency's expense, if such review is job related and consistent with business necessity as described in Section 208 of this Chapter.
4. Medical documentation may be insufficient if, for example:
 - a. it does not specify the existence of a disability;
 - b. it does not explain the need for the reasonable accommodation;

- c. the health care professional does not have the expertise to give an opinion about the medical condition and the limitations imposed by it;
- d. the information does not specify the functional limitations currently due to the disability; or
- e. other factors indicate that the information provided is not credible or is fraudulent.

D. Confidentiality Requirements

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 obtained regarding the medical condition or medical history of any employee shall be treated as a confidential medical record. This includes information concerning the employee's medical diagnosis, symptoms, and functional limitations. Consistent with statutory and EEOC requirements, such medical information shall not be placed in the individual's personnel file. DOL employees who obtain or receive such information as part of the accommodation process are strictly bound by these confidentiality requirements. Under EEO laws, the act of requesting an accommodation — regardless of outcome — is considered a protected activity and should not be disclosed except to those with a need to know that information.
2. The agency WECO and CRC will maintain custody of the official records obtained or created during the processing of a request for reasonable accommodation, including medical records, and will consult with SOL regarding requests for disclosure of records outside of those circumstances listed in subparagraphs (a)-(e) below. Records will be maintained in a system of records managed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a, as amended, and the requirements of 29 C.F.R. Parts 1614 and 1630, and shall be separate from the individual's official personnel file. These records will be maintained for three (3) years after the employee's separation from DOL or all appeals are concluded, whichever is later. The agency WECO and CRC are to keep any cumulative records used to track DOL's overall performance with regard to reasonable accommodation (as described in Section 209 of this Chapter) for at least three (3) years after the tracking report is filed. This information may be disclosed in the following circumstances:
 - a. Supervisors, managers and departmental officials with the need to know will be provided the information necessary to implement any reasonable accommodation, including adjustments to the work or duties of the employee or other reasonable accommodations. This information should be limited in scope and should not contain diagnosis, symptoms, or other medical information not relevant to the accommodation request;
 - b. Supervisors, managers, HR officials, agency representatives, attorneys and others involved in any grievances, claims or complaints directly related to

reasonable accommodation requests may have access to information and copies of relevant documents as needed;

- c. First aid and safety personnel may be informed, when appropriate, if the disability may require emergency treatment or assistance during an evacuation or emergency event;
- d. Government officials with the requisite authorization may be given information necessary to investigate the agency's compliance with federal antidiscrimination laws and/or other law enforcement purposes; and
- e. CRC officials may be provided the information to maintain records and evaluate and report on the agency's performance in processing reasonable accommodation requests.

E. Time frames

1. Intake

- a. Deciding Officials, WECOs, servicing human resources offices, any management official, or any agency employee connected with the job application process must report all requests for reasonable accommodation to the CRC and the Agency WECO within two (2) business days of receiving the request.
- b. The Deciding Official, CRC and/or WECO will contact the applicant or employee within four (4) business days after the accommodation request is received.

2. Processing

- a. DOL will process requests and, where appropriate, provide accommodations in as short a period as reasonably possible. The time frame in this section indicates the maximum amount of time it should generally take to process a request.
- b. Within sixty (60) business days after the WECO or CRC has received sufficient medical documentation, as described in Section 205(C) of this Chapter, or an assessment has been completed:
 - 1. The Deciding Official will, unless there are extenuating circumstances, issue a written decision to the employee.
 - 2. The CRC will, unless there are extenuating circumstances, purchase equipment, services, or assistive technology (using DOL's Centralized Accommodation Fund) when it has been determined that a purchase is needed as described in Section 205(F)(2)(a) of this Chapter.
- c. When an assessment is required, the start of the sixty (60) business day time frame will begin once the assessment is completed and received by the CRC and/or WECO. *(Assessments include where it may be necessary to conduct a physical workplace assessment for items such as assistive technology or*

ergonomic equipment, or a medical assessment from PSC, as described in Section 208 of this Chapter.)

- d. There may be additional time added to this time frame for the delivery of purchased items. Delivery times vary based on the products purchased, type of request for accommodation, or recommendations from an assessment and physicians. While it is known that these types of situations will vary, the CRC will ensure that the employee and Deciding Official are aware of all delivery time frames and provide updates of progress.
- e. As there are unlikely to be accommodations that will be identical, the time frames for completion will be different in each situation. The CRC and/or WECO will seek to ensure that all accommodation requests are processed as expeditiously as possible, but the approximate time frame of completion is contingent upon the factors listed above.
- f. When the request is made, CRC and/or the WECO will immediately work with the Deciding Official to begin engagement in the interactive process with the employee/applicant and collect all relevant information about possible accommodations. There should not be a delay in beginning this process. All employees who receive inquiries or questions from CRC and/or the WECO relating to a request for an accommodation are expected to respond and provide the necessary information promptly so that delays in providing accommodations may be avoided.
- g. In those instances where the disability is obvious or already known to CRC and/or the WECO, if it is clear why an accommodation is needed, and if an accommodation can be provided quickly, then CRC and/or the WECO will be able to assist the Deciding Official in providing the accommodation sooner than in those situations when these factors are not present. The following are illustrative of straightforward situations where an accommodation can usually be provided within a shorter time period:
 - 1. An employee with insulin-dependent diabetes who sits in an open area asks for three breaks a day to test blood sugar levels in private.
 - 2. A supervisor distributes a detailed agenda at the beginning of each staff meeting. An employee with a serious learning disability asks that the agenda be distributed ahead of time because the disability makes it difficult to read quickly and the employee needs more time to prepare.

3. Extenuating Circumstances

- a. Extenuating circumstances are circumstances that could not reasonably have been anticipated or avoided or that are beyond DOL's ability to control. Failure to immediately begin the processing of a request for accommodation within two (2) business days solely because a Deciding Official did not forward the request to the CRC and/or WECO is not an extenuating circumstance.

- b. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and/or providing the accommodation may be greater than those when extenuating circumstances do not exist. While these types of circumstances may not be foreseen, once discovered, the CRC and/or the WECO will immediately make the employee/applicant and Deciding Official aware of the situation and provide regular updates of progress.
4. **Expedited Processing of Requests.** In certain circumstances, a request for reasonable accommodation by an employee may require an expedited review and decision within a specific time period. Expedited processing might be necessary where, for instance, the reasonable accommodation is needed for a specific agency activity that is scheduled to occur shortly (e.g., an employee may need a sign language interpreter for a meeting scheduled to take place in five days).
5. **Interim Accommodations.** If a delay in processing a reasonable accommodation request is necessary, the CRC and/or the WECO should work with the Deciding Official and the employee to institute interim accommodations to assist the individual with a disability to the extent practicable to perform the essential functions of the job. The employee should be informed that the measures are only temporary and provided on an interim basis until such time as a permanent accommodation can be provided or until a decision is made that one is not warranted.
6. Upon resolution of a reasonable accommodation request, as described in Section 207 of this Chapter, individuals who are dissatisfied with a denied request for accommodation may seek in writing that the agency reconsider the decision within ten (10) business days after receiving such decision. The agency's designated official will provide a written response to the request for reconsideration within fifteen (15) business days after receiving the written request for reconsideration.

F. **Processing Specific Types of Reasonable Accommodation Requests**

1. Employees and applicants can make a request for a reasonable accommodation to a Deciding Official, the WECO, the servicing human resources office, the CRC, a management official, or any agency employee connected with the job application process. All accommodation requests — regardless of to whom the requests are made — are to be immediately forwarded to the Agency WECO and CRC (within two (2) business days) for intake and tracking. Requests can be sent to CRC at raarc.info@dol.gov, phone 202-693-6500, fax 202-693-6505, tty 800-877-8339, or video relay 877-709-5797. CRC will distribute requests for processing as described in this section. This will enable the CRC to assist in monitoring requests, providing guidance, and ensuring that the procedures are handled efficiently and effectively.
2. Certain types of requests for reasonable accommodation are processed by CRC and others are processed by the WECO:
 - a. The CRC coordinates with the Deciding Official to process reasonable accommodation requests paid for from DOL's Centralized Accommodation Fund

(CAF) and the U.S. Department of Defense's Computer/Electronic Accommodations Program (CAP). The CRC will determine whether medical documentation is necessary to support a request (as described in Section 205(C) of this Chapter) for a reasonable accommodation purchased through the CAF and/or CAP. CAF can be used to purchase reasonable accommodations with a cumulative cost of more than \$250. If the cumulative cost of an accommodation is less than \$250, the CRC will provide any necessary support to facilitate the Deciding Official's purchase of the item or equipment. The CRC is responsible for processing all accommodation requests that may be paid for using CAF or CAP, such as:

1. Assistive technology devices or software (such as screen readers), communications equipment, or specially designed furniture. Note that providing employees with computers is the agency's responsibility because computers are a required piece of equipment for any DOL employee;
 2. Readers or other staff assistants to enable employees to perform their job functions;
 3. Certain changes to buildings or facilities; and
 4. Materials in alternative formats, such as Braille.
- b. The WECO is responsible for an agency's overall equal employment opportunity program. The WECO advises agency managers/supervisors on EEO issues, including reasonable accommodations. The WECO coordinates with the Deciding Official to process reasonable accommodation requests, including:
1. Modifying work schedules or supervisory methods (such as providing assignments verbally and in writing);
 2. Granting breaks or providing leave;
 3. Altering how or when job duties are performed;
 4. Removing and/or substituting marginal functions;
 5. Moving to different office space;
 6. Providing telework beyond that provided by the collective bargaining agreement, DOL policy, or the relevant Memorandum of Understanding;
 7. Making changes to workplace policies; and
 8. Providing a reassignment to another job.
3. **Recurring Accommodations.** Where the accommodation is likely to be needed on a recurring basis, such as a sign language interpreter or large print documents, the employee need not go through the approval process on a recurring basis. DOL's Human Resources Center's Office of Diversity and Inclusion manages DOL's Sign Language

Interpreting Office, which provides American Sign Language interpreters and Communication Access Realtime Translation (CART). DOL's [Sign Language and Captioning Request form](#) is attached as Appendix F.

4. Reassignment

- a. Reassignment will be considered as a reasonable accommodation only as a last resort after all other possible accommodations have been explored and ruled ineffective. Generally, reassignment will only be considered if no accommodations are available to enable the individual to perform the essential functions of the current job, or if the only effective accommodation would cause undue hardship to the Department. An employee's rejection of a reasonable accommodation or effective alternative accommodation does not make an employee eligible for reassignment.
- b. When an employee requests reassignment, the WECO should work with the servicing human resources office to assess the request. The WECO shall review the employee's file and may contact the employee's supervisor to confirm that the reasonable accommodation process occurred consistent with this Chapter. If the employee has not participated in the reasonable accommodation process, the WECO shall follow the process outlined in this Chapter for processing accommodation requests prior to providing reassignment.
- c. Reassignments will be made to vacant funded positions only. A position is considered a "vacant funded" position when a request to initiate a recruitment action has been received in the servicing human resources office and/or the agency indicates/confirms that a vacant position exists. Intra-agency reassignments are to be considered first before inter-agency reassignments are assessed. DOL cannot reassign an employee if no vacant funded positions are available.
- d. Employees may be reassigned only to positions for which they are qualified and that are equivalent in terms of pay, status, or other relevant factors (e.g., benefits, geographical location) unless they consent otherwise.
- e. Reassignment may be offered to a lower-graded position if no vacant funded positions are available at the employee's grade, and the employee has indicated a willingness to consider such positions on the Reassignment Preference Form ([Appendix E](#)). There is no guarantee of pay retention if a lower graded position is identified.
- f. An employee being reassigned to a different commuting area shall pay for relocation expenses unless the agency routinely pays such expenses when granting voluntary transfers to other employees.
- g. Reassignments to or within the OIG can be requested by the HR Director or OASAM Regional Administrator but cannot be ordered.

5. Parking

- a. Under the Federal Management Regulations, employees with severe disabilities have first priority for employee parking spaces in federally controlled areas. 41 C.F.R. §§ 102–74.285 and –74.305. Therefore, federal agencies must assign available parking spaces to employees with severe disabilities first. The Federal Management Regulation defines “severe disability” as a severe, permanent impairment that for all practical purposes precludes the use of public transportation, or an employee who is unable to operate a car as a result of permanent impairment who is driven to work by another.
- b. Reasonable accommodations for parking may include an assigned parking space that is:
 1. Close to the entrance of the building;
 2. On an accessible route;
 3. Close to the employee's office;
 4. Next to an access aisle to allow the employee to exit the vehicle;
 5. In an otherwise first come, first served parking lot;
 6. Available for a van with a wheelchair ramp or lift; and/or
 7. Covered or inside.
- c. Making a Request. Under most circumstances, an employee should submit a written request for a parking priority or a parking reasonable accommodation using the Application for Parking Assignment for Employees with Disabilities ([Appendix B](#)) to the CRC and the Deciding Official. To receive guidance relating to functional limitations or alternatives based on the type of disability, the Deciding Official will consult with the Agency WECO, CRC, and the Building/Parking Official. The Building/Parking Officials are:
 1. For the Frances Perkins Building: Director, Office of Administrative Services/Facilities, Business Operations Center (BOC), OASAM;
 2. For the MSHA building at 201 12th Street South, Arlington, VA 22202: Director, Office of Administration and Management, Mine Safety and Health Administration (MSHA);
 3. For the Postal Square Building: Chief, Division of Administrative Services, Bureau of Labor Statistics (BLS); and
 4. For the Regional Offices and for any satellite (district, area, or other local) offices in the region not co-located with the Regional Office: OASAM Regional Administrator.

The employee may be required to provide medical documentation or additional information consistent with Section 205(C) of this Chapter. The Deciding Official, in consultation with the Building/Parking Official, will provide the employee with a written decision and provide the CRC with a copy of the record. The CRC will monitor requests for parking-related accommodations.

- d. **Payment for Parking.** If employees are generally required to pay for parking, individuals with disabilities who receive a parking priority or reasonable accommodation are also required to pay such fees. In facilities where there are no Government-owned or Government-controlled parking facilities available, DOL may pay the reasonable increased portion only of commercial parking fees for employees with disabilities, if the disabling condition requires the individuals to pay more than a de minimis amount above that generally paid by other employees working at the same facility (Decision of the Comptroller General, 12349, March 26, 1984). Each employee with a disability must pay the usual cost (typically paid by others for commercial parking in that same area) of commuter parking and the Department may pay the increased portion resulting from parking accessibility requirements (for example, if there is an increased cost for a reserved parking space in the employee's office building, a parking space closer to the entrance, or an enclosed parking space). DOL, through the Building/Parking Official listed in paragraph (5)(c) of this Section, may request that GSA provide the necessary parking accommodations. However, the Department may request delegation of authorities for this purpose to facilitate accounting procedures related to incremental parking payments.

6. Changes to Buildings or Facilities

- a. In the event that an employee has a reasonable accommodation request that requires making physical changes to a DOL building or work space utilized by that employee, the employee shall make the request directly to the CRC and the Deciding Official. The Deciding Official will consult with the Building/Parking Officials listed in Section 205(F)(5)(c), the Agency WECO, and the CRC in order to receive guidance relating to functional limitations or alternatives based on the type of disability.
- b. The employee may be required to provide medical documentation or additional information consistent with Section 205(C) of this Chapter.
- c. For requests in regional offices, the OASAM Regional Administrator may work with the GSA Building Manager to address and implement accommodations concerning physical changes to a DOL building or work space (building facility).
- d. The Deciding Official, in consultation with the Building/Parking Officials listed in Section 205(F)(5)(c) of this Chapter, will provide the employee with a written decision and provide the CRC with a copy of the record.
- e. For DOL employees who may be located in State government offices, requests for accommodation dealing with state building facilities should be directed to

the respective designated employee under 28 C.F.R. § 35.107, (regulations for Title II of the Americans with Disabilities Act) with a copy to the CRC. Complaints related to building accessibility within State government offices will be processed under 29 C.F.R. Part 32 (regulations for Section 504 of the Rehabilitation Act for Federally-assisted programs receiving financial assistance from the U.S. Department of Labor).

- f. The CRC will monitor requests for building-related accommodations.

206 Resolution of Reasonable Accommodation Request

- A. All final decisions regarding requests for reasonable accommodations must be issued in writing. All decisions are issued by and from the Deciding Official, following consultation with CRC, the WECO, and/or SOL. For requests involving building-related accommodations in the National Office, the Deciding Official will also consult with the Business Operations Center. For all other locations, the Deciding Official will consult with the Building/Parking Officials as listed in Section 205(F)(5)(c) of this Chapter.
- B.
 1. If the Deciding Official grants a request for accommodation, the Deciding Official will inform the employee or applicant in writing of the decision and work to implement the accommodation. The Deciding Official may grant and implement an accommodation before issuing such a written decision. While a written decision should be issued contemporaneously, it should not delay the provision of an accommodation.
 2. If the Deciding Official denies a request for accommodation, the Deciding Official will inform the employee or applicant in writing of the decision. The denial should be written in consultation with the WECO and reviewed by CRC and SOL before being issued to the employee or applicant. The Deciding Official will specifically indicate the reason for the denial (e.g., why the medical documentation from the employee is inadequate to establish that the individual has a disability or needs reasonable accommodation, why the requested accommodation would not be effective, or why the accommodation would pose an undue hardship), the identity of the WECO, and the individual's administrative rights to request reconsideration of the decision or file an EEO claim.
 3. Where a specific requested accommodation is denied, and a different one is offered in its place, the written notice will explain both the reason for the denial of the requested accommodation, and why the Deciding Official believes that the accommodation offered will be effective.
- C. A written notice must be provided regardless of what type of change or modification is approved. If the Deciding Official is granting a request without determining whether the individual has a "disability," the notice must state that DOL has voluntarily granted this accommodation without determining whether the employee/applicant is a qualified individual with a disability. DOL cannot require a qualified individual with a disability to accept an accommodation that is neither requested nor needed by the individual. However, if a particular

reasonable accommodation is effective to enable the individual to perform the essential functions of the job, but refused, the individual may be considered not qualified for their position. If all possible accommodations have been explored and ruled ineffective, reassignment can be considered as a reasonable accommodation. Generally, reassignment will only be considered if no accommodations are available to enable the individual to perform the essential functions of the current job, or if the only effective accommodation would cause undue hardship to the Department.

- D. After an accommodation has been provided, CRC will monitor the accommodation for effectiveness, as appropriate, by following up with the employee.

207 Requests for Reconsideration

- A. Upon resolution of a reasonable accommodation request, as set forth in Section 206 of this Chapter, individuals who are dissatisfied with a denied request for accommodation may seek in writing that the agency reconsider the decision within ten (10) business days after receiving such decision. These requests should be provided to the Agency WECO who will forward it to the designated individual. Each Agency Head will designate a high level official to review such requests for reconsideration. The person designated should be at a level comparable to a Senior Executive Service Career Deputy Assistant Secretary, and should not have a direct connection with a particular reconsideration request (which may in some instances require designation of a substitute official). When a request for reconsideration is made, the individual may present additional information in writing in support of the request, and the agency designated official may consider that and any other information at the official's discretion. The agency's designated official will provide a written response to the request for reconsideration within fifteen (15) business days after receiving the written request for reconsideration. This response shall be provided to the individual requesting the accommodation, the Deciding Official, the agency WECO, and the CRC. This response shall state either an affirmation or a reversal of the Deciding Official's decision.
- B. This request for reconsideration process does not affect the time frame for instituting proceedings under the Equal Employment Opportunity (EEO) procedures set forth at 29 C.F.R. Part 1614 or any other dispute resolution process. The forty-five (45) day period during which an employee may begin proceedings under the EEO process begins on the date of the decision letter issued by the Deciding Official, not the date of any action in response to the request for reconsideration. An individual's participation in any or all of these informal dispute resolution processes does not satisfy the requirements for bringing a claim under the EEO complaint process, Merit Systems Protection Board or union grievance procedures. For more information on initiating the EEO process, please see [Civil Rights Center](#).

208 Independent Medical Assessment and Disability Retirement

- A. The U.S. Department of Health and Human Services' Program Support Center (PSC) (formerly known as Federal Occupational Health) can provide independent medical assessments either in the form of an independent medical review or an independent medical examination. CRC serves as DOL's liaison to PSC. All requests for independent medical assessment must be made by the WECO to the CRC.

1. The requirements for a request are:
 - a. The medical documentation provided by the employee requesting a reasonable accommodation is insufficient, as described in Section 205(C)(3)(4)
 - b. of this Chapter, or the employee has not responded to requests for medical documentation;
 - c. The employee must sign the appropriate authorization as described more specifically below; and
 - d. The request must be job-related and consistent with business necessity.

B. Independent Medical Review

1. When CRC makes a request to PSC for independent medical review, a PSC physician may review medical documentation and/or contact the employee's doctors. Examples of independent medical review may include: evaluating the nature of the disability, assessing the functional limitations, determining the need for the accommodation or disability parking, or suggesting possible accommodations. The agency is responsible for paying PSC's fees. All medical records obtained under this section must be held by the agency WECO and CRC in a manner that complies with the confidentiality provisions stated in Section 205(D) of this Chapter. The employee must sign an Authorization for Limited Release of Medical Information to Program Support Center ([Appendix C – 1](#)).
2. An independent medical review can also be requested when there is a reasonable belief, based on objective evidence, that an employee's ability to perform essential job functions will be impaired by a medical condition.

C. Independent Medical Examination.

1. Prior to requesting an independent medical examination, an independent medical review must be obtained by PSC (as described in Section 208(B) of this Chapter). An independent medical examination may be performed by a healthcare professional designated by PSC to assess if an employee is fit for duty. This is an individualized assessment of the employee's present ability to perform the essential functions of the job.
2. All requests for independent medical examination must be made by the WECO to the CRC. The employee must complete the Consent for Examination form ([Appendix D](#)).

D. Disability Retirement

1. The WECO shall review the employee's file to ascertain whether the reasonable accommodation process occurred consistent with this Chapter:
 - a. If the employee has participated in the reasonable accommodation process, including assessment of reassignment, the WECO shall complete the [Agency Certification of Reassignment and Accommodation Efforts](#) (ACRAE) form accordingly.

- b. If the employee has not participated in the reasonable accommodation process, the WECO shall follow the process outlined in this Chapter.
2. After the employee has signed the Authorization for Limited Release of Medical Information to Program Support Center ([Appendix C – 1](#)), the WECO may send the request to the CRC to forward to PSC for review prior to completing the ACRAE form. If the employee's disability is deemed by his or her doctor to be terminal as reflected in the medical documentation provided, the WECO must complete the ACRAE form without further assessment by the PSC.

209 Information Tracking and Reporting

- A. Executive Order 13164 requires DOL to track the processing of requests for reasonable accommodation from employees and applicants.
- B. The CRC will develop, on behalf of DOL, cumulative reports for each fiscal year. CRC will provide these reports to the Assistant Secretary for Administration and Management (ASAM) by January 31 of the year following the fiscal year at issue. The reports will be kept for a minimum of three (3) years. The Deciding Officials, WECOs, and servicing human resources offices will provide CRC with data from the reasonable accommodation requests they processed.
- C. The yearly report will contain the following information, presented in the aggregate:
 1. The number and types of reasonable accommodations that were requested in the application process and whether these requests were granted or denied;
 2. The jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested, the types of reasonable accommodations that were requested, and the number of approvals, alternative effective accommodations, and denials of such requests;
 3. The number and types of requests for reasonable accommodations that related to the benefits or privileges of employment, and whether those requests were granted or denied;
 4. The reasons for denial of requests for reasonable accommodation;
 5. The number of days taken to process each request for reasonable accommodation, noting the date of the request, the date sufficient medical documentation was received (as appropriate), the date an assessment was completed (as appropriate), and the date the accommodation was provided or the date of the denial decision;
 6. The sources of technical assistance that were consulted in trying to identify possible reasonable accommodations; and
 7. A qualitative assessment of DOL's reasonable accommodation policies and procedures, including recommendations for improvement.

210 Relation of Procedures to Statutory and Collective Bargaining Claims

- A. This policy does not limit or supplant statutory and collective bargaining protections for persons with disabilities and the remedies those protections provide. The requirements governing the initiation of statutory and collective bargaining claims, including time frames for filing such claims, remain unchanged. For an EEO complaint, employees must contact an EEO counselor within 45 calendar days from the date of:
 - 1. The denial letter received from the Deciding Official, or
 - 2. An alleged discriminatory action.
- B. For a collective bargaining claim, employees must file a written grievance in accordance with the provisions of the applicable Collective Bargaining Agreement.
- C. This policy creates no new enforceable rights under Section 501 of the Rehabilitation Act, any other law, or a 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.”

211 Authorities

- A. Statutes
 - 1. [Rehabilitation Act of 1973](#), as amended
 - 2. [Privacy Act of 1974](#)
 - 3. [Title I of the Americans with Disabilities Act](#) of 1990, as amended
 - 4. [Americans with Disabilities Act Amendments Act of 2008](#)
- B. Regulations
 - 1. Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, [29 C.F.R. Part 1630](#)
 - 2. Federal Sector Equal Employment Opportunity, [29 C.F.R. Part 1614](#)
 - 3. Federal Management Regulation, parking, 41 C.F.R. §§ 102–74.285 and –74.305.
- C. Executive Orders
 - 1. [Executive Order 13548](#) of July 26, 2010: Increasing Federal Employment of Individuals with Disabilities
 - 2. [Executive Order 13163](#) of July 28, 2000: Increasing the Opportunity for Individuals with Disabilities to Be Employed in the Federal Government
 - 3. [Executive Order 13164](#) of July 26, 2000: Requiring Federal Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation

D. U.S. Equal Employment Opportunity Commission (EEOC) Guidance and Technical Assistance Documents

1. [Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008](#)
2. [Fact Sheet on the Equal Employment Opportunity Commission's \(EEOC\) Final Regulations Implementing the ADAAA](#)
3. [EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act](#) (October 17, 2002)⁽²⁾
4. [EEOC Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act](#) (July 27, 2000)
5. [EEOC Technical Assistance Manual on the Employment Provisions \(Title 1\) of the Americans with Disabilities Act](#) (January 1992)
- 6.
7. [EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation](#) (October 20, 2000)
8. [Employer-Provided Leave and the Americans with Disabilities Act](#) (May 9, 2016)

E. Other

1. [Equal Employment Opportunity Management Directive 715](#) (October 1, 2003)
2. [Decision of the Comptroller General, 12349](#) (March 26, 1984)

(1) The Americans with Disabilities Act of 1990 ("ADA"), as amended, 42 U.S.C. § 12101 *et seq.*, protects persons with disabilities from discrimination in employment in the private sector and state and local governments. The substantive employment standards of the ADA are applicable to the Federal Government through the Rehabilitation Act. 29 U.S.C §§ 791(f) and 794(d) ("the standards used to determine whether this section has been violated in a complaint alleging employment discrimination udlms4-0306.htmnder this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990.").

(2) The Americans with Disabilities Act Amendments Act (ADAAA) of 2008 was signed into law on September 25, 2008 and became effective January 1, 2009. Because this law makes several significant changes, including changes to the definition of the term "disability," resources dated prior to the enactment of the ADAAA do not include these changes and the outdated portions of those resources have not been relied upon in this Chapter