

**U.S. DEPARTMENT OF AGRICULTURE
 FARM PRODUCTION AND CONSERVATION MISSION AREA
 BUSINESS CENTER
 WASHINGTON, DC 20250**

FPAC Procedure Manual	NUMBER: FPAC-PM 4300-001
SUBJECT: Reasonable Accommodation Procedures	DATE: May 9, 2019
APPROVING OFFICIAL: Thomas Christensen, Deputy Chief Operating Officer, Business Services	ORIGINATING OFFICE: Human Resources Division

<u>Section</u>	<u>Page</u>
1. Purpose	1
2. Scope	2
3. Special Instructions/Cancellations	2
4. Policy	2
5. Definitions	2
6. Confidentiality	5
7. Roles and Responsibilities	6
8. Procedures	8
9. Types of Accommodations	13
10. Reassignment	15
11. Additional Resources	16
Appendix A – Confirmation of Request for Reasonable Accommodation	A-1
Appendix B – Resolution of Reasonable Accommodation Request	B-1
Appendix C – Reasonable Accommodation Determination Memorandum	C-1

1. PURPOSE

Executive Order 13164 requires all Federal Agencies to establish procedures on handling requests for reasonable accommodation that are in compliance with the requirements of the Rehabilitation Act of 1973 (Rehabilitation Act). This subpart transmits the procedures to implement Department Regulation (DR) 4300-8, Reasonable Accommodations for Employees and Applicants with Disabilities. This Farm Production and Conservation procedure manual establishes written procedures on how to request and obtain a reasonable accommodation in accordance with DR 4300-8.

The duty of federal employers to provide reasonable accommodations is a fundamental statutory requirement under the Rehabilitation Act. 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 work 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 the Farm Production and Conservation (FPAC) mission area, with respect to reasonable accommodations and provides examples of the types of accommodations that are appropriate and generally will be provided to FPAC employees and applicants with disabilities, in accordance with related USDA 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.

2. SCOPE

This directive applies to all Farm Production and Conservation mission area employees and applicants with disabilities.

3. SPECIAL INSTRUCTIONS/CANCELLATIONS

This FPAC directive replaces the following agency policy on reasonable accommodation.

- a. Handbook 31-PM, Reasonable Accommodations for FSA and RMA
- b. NRCS GM 230-401, subpart C.

4. POLICY

It is FPAC policy that management must participate in an interactive process to determine an effective reasonable accommodation. When a request, either verbal or written, is made by an employee for a reasonable accommodation, both the employee and supervisor must 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. 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.

Reasonable accommodation requests will be handled fairly and promptly within 30 business days from receipt of an oral or written request unless extenuating circumstances require an extension of this time period. FPAC will not discriminate on the basis of disability in the full and equal employment of the goods, services, facilities, privileges, advantages, or accommodations of any place it owns, leases, operates, or contracts.

5. DEFINITIONS

- a. Deciding official is typically, the first-line supervisor or manager that is authorized to render decisions on accommodation requests for employees in their chain of supervision. In cases of applicants who request accommodation, the Chief Human Capital Officer, FPAC, is the deciding official.

- b. Disability is a physical 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.
- c. Essential functions are 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. A job function may be considered essential for any of several reasons, including but not limited to the following:
 - (1) the function may be essential because the reason the position exists is to perform that function;
 - (2) there are a limited number of employees available among whom the performance of that job function can be distributed; and/or
 - (3) 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.
- d. Major life activities include but are not limited to:
 - (1) 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
 - (2) 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. Mental impairment is any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- f. Physical impairment is 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.
- g. Personal assistance services are a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability.
- h. Qualified individual is 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.

- i. Reasonable accommodation is 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 of a job, or to enjoy equal benefits and privileges of employment that are available to individuals without disabilities.

While there are some instances that are not considered reasonable accommodations (e.g., removal of an essential job function, lower production standards, or allowing inappropriate conduct), 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.

- j. Substantially limits means the inability to perform a major life activity as compared to most people in the general population. A 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).

- k. Undue hardship applies when denial of a request for a reasonable accommodation may be justified if providing that accommodation would pose undue hardship to FPAC. In determining undue hardship, the following factors should be considered:

- (1) the nature and cost of the accommodation needed;
- (2) the employer's overall size, financial resources, number of employees, and type and location of facilities;
- (3) 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
- (4) 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: In determining whether an accommodation is too costly, it is necessary to consider the overall financial resources (budget) of USDA, and not simply the resources of the facility or sub-agency in question.

6. CONFIDENTIALITY

- a. 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 FPAC obtains in connection with a request for a reasonable accommodation must be kept in files separate from the individual's personnel file and medical file. This includes the fact that an accommodation has been requested or approved and information about functional limitations. It also means that any FPAC employee who obtains or receives such information is strictly bound by these confidentiality requirements.
- b. The Reasonable Accommodation Program Manager (RAPM) may share certain information with an employee's supervisor or other agency official(s) as necessary to make appropriate determinations on a reasonable accommodation request. Under these circumstances, the RAPM will inform the recipients about 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 requestor and/or the office in which the requestor works, or even the name of the disability.
- c. In addition to disclosures of information needed to process a request for accommodation, other disclosures of medical information are permitted as follows:
 - (1) supervisors and managers are entitled to the information necessary to implement restrictions on the work or duties of the employee or to provide a reasonable accommodation;
 - (2) first aid and safety personnel may be informed, when appropriate, *if* the disability might require emergency treatment or assistance in evacuation; and
 - (3) government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act. In certain circumstances, the information may be disclosed to workers' compensation offices or insurance carriers, in accordance with EEOC regulations.

7. ROLES AND RESPONSIBILITIES

- a. The Deputy Chief Operating Officer, Business Services is responsible for:
 - (1) ensuring that deciding officials receive training on this procedure manual, including training provided by the RAPM;
 - (2) ensuring full and prompt cooperation by the agency with implementing and processing reasonable accommodation requests under this procedure manual;
 - (3) providing sufficient agency funds and other resources to ensure effective implementation of this policy, to include payment for medical review by the U.S. Department of Health and Human Services' Program Support Center (PSC) (formerly known as Federal Occupational Health); and,
 - (4) making delegations of the authority and assignments of the responsibility for participants in the reasonable accommodation process, as appropriate.
- b. The Reasonable Accommodation Program Manager (RAPM) is responsible for:
 - (1) the overall management of the reasonable accommodation program;
 - (2) providing direction, training, and guidance on the implementation of this policy;
 - (3) receiving and recording all reasonable accommodation requests. Advising deciding officials on providing accommodations. Providing needs assessments to determine effective accommodations. After an accommodation is provided, monitoring it for effectiveness;
 - (4) serving as FPAC'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;
 - (5) maintaining confidentiality of records.

- c. The deciding official is responsible for:
 - (1) providing information and forms to employees and applicants requesting accommodations or referring the employee to the RAPM 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,
 - (3) documenting requests for accommodation and the action taken;
 - (4) reporting all requests for reasonable accommodation to RAPM within three (3) business days of receiving the request;
 - (5) consulting with Employee Relations when accommodation requests involve performance, conduct, or leave issues;
 - (6) Rendering decisions on certain accommodation requests after consulting RAPM; and,
 - (7) Maintaining confidentiality of records as required by the Rehabilitation Act and the ADA.

- d. Human Resources 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 the RAPM within three (3) business days of receiving the request and gathering input from RAPM, as necessary;
 - (3) identifying vacant positions for which an employee is qualified in cases where reassignment is being considered as a possible reasonable accommodation; and,
 - (4) serving as a primary expert resource to the RAPM 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.

- e. Employees and applicants with disabilities are responsible for:
 - (1) requesting an accommodation using the procedures outlined in this policy;
 - (2) participating in good faith with FPAC officials in the mandatory interactive process to assess what accommodation can be provided, including promptly providing a limited medical release and/or medical documentation, when requested.

8. PROCEDURES

- a. **Time frame.** The time frame for processing a request (including providing accommodation, if approved) is as soon as possible but no later than 30 business days from the date the request is made. The time frame begins when an oral or written request for reasonable accommodation is made, and not necessarily when it is received by the RAPM. However, if the RAPM must request medical information or documentation from a requestor's doctor, the time frame will stop on the day that the RAPM makes a request to the individual to obtain medical information or sends out a request for information/documentation, and will resume on the day that the information/documentation is received by the RAPM.

- (1) Extenuating circumstances are circumstances that could not reasonably have been anticipated or avoided or that are beyond FPAC's ability to control. Failure to immediately begin the processing of a request for accommodation within three (3) business days solely because a deciding official did not forward the request to the RAPM is not an extenuating circumstance.

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 RAPM will immediately make the employee/applicant and deciding official aware of the situation and provide regular updates of progress.

- (2) Expedited Accommodation. 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, a request for leave may need to be granted immediately, etc.).
- (3) Interim Accommodations. If a delay in processing a reasonable accommodation request is necessary, the RAPM 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.

When all the facts and circumstances known to the agency make it is reasonably likely that the individual will be entitled to an accommodation, but the accommodation cannot be provided immediately, the agency *will* provide the individual with an interim accommodation that allows the individual to perform some or all of the essential functions of the job, absent undue hardship.

- b. **Requesting an Accommodation.** Requests by an employee, or on the employee's behalf for reasonable accommodation may be made orally or in writing to his or her immediate or first line supervisor or to the RAPM. Upon receipt of request, it should be documented either by the employee, first line supervisor or RAPM using Form EEOC 557. The request should outline the type of accommodation requested, if known.
- (1) If an employee makes a reasonable accommodation request to someone other than the RAPM, such as a supervisor, or manager, he or she should forward the request to the RAPM immediately and must do so within three (3) business days. The reasonable accommodation process begins as soon as the oral or written request for accommodation is made to any manager in an employee's chain of command, so it is imperative that the request be forwarded to the RAPM within three (3) business days.
 - (2) An individual's receipt or denial of an accommodation does not prevent the individual from making another request at a later time if circumstances change and he or she believes that an accommodation is needed due to limitations from a disability (e.g., the disability worsens or an employee is assigned new duties that require an additional or different reasonable accommodation). Additionally, the RAPM may not refuse to process a request for reasonable accommodation, and a reasonable accommodation may not be denied, based on a belief that the accommodation should have been requested earlier (e.g., during the application process).
 - (3) A request does not have to include any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." A request is any communication in which an individual asks or states that he or she needs FPAC to provide or to change something because of a medical condition. A supervisor, manager, or the RAPM should ask an individual whether he or she is requesting a reasonable accommodation if the nature of the initial communication is unclear.
 - (4) A family member, health professional, or other representative may request an accommodation on behalf of an FPAC employee or applicant. For example, a doctor's note outlining medical restrictions for an employee constitutes a request for reasonable accommodation.
 - (5) An employee needing a reasonable accommodation on a recurring basis, such as the assistance of a sign language interpreter, only needs to make the initial request. However, the employee requesting accommodation must give appropriate advance notice each subsequent time the accommodation is needed. If the accommodation is needed on a regular basis (e.g., a weekly staff meeting), the RAPM should ensure that an employee's supervisor makes the appropriate arrangements without requiring a request in advance of each occasion.

- c. **Processing a Request for Accommodation.** While the RAPM has responsibility for processing requests for reasonable accommodation, the RAPM will work closely with an employee's supervisor in responding to the request, particularly those involving performance of the job. The RAPM will need to consult with an employee's supervisor to gather relevant information necessary to respond to a request and to assess whether a particular accommodation will be effective. No reasonable accommodation involving performance of the job will be provided without first informing an employee's supervisor.
- (1) 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. This means that the individual requesting the accommodation and the RAPM must communicate with each other about the request, the precise nature of the problem that is generating the request, how a disability is prompting a need for an accommodation, and alternative accommodations that may be effective in meeting an individual's needs.
 - (2) The RAPM will contact the applicant or employee within five (5) business days after the request is made (even if the request is initially made to someone else) to begin discussing the accommodation request. In some instances, the RAPM may need to get information to determine if an individual's impairment is a "disability" under the Rehabilitation Act or to determine what would be an effective accommodation. Such information may not be necessary if an effective accommodation is obvious, if the disability is obvious (e.g., the requestor is blind or has paraplegia) or if the disability is already known to FPAC (e.g., the requestor previously asked for an accommodation and information submitted at that time showed a disability existed and that there would be no change in the individual's medical condition).
 - (a) 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.
 - (b) When a third party (e.g., an individual's doctor) requests accommodation on behalf of an applicant or employee, the RAPM should, if possible, confirm with the applicant or employee that he or she wants a reasonable accommodation before proceeding. Where this is not possible, for example, because the employee has been hospitalized in an acute condition, the RAPM will process the third party's request if it seems appropriate (e.g., by granting immediate leave) and will consult directly with the individual needing the accommodation as soon as practicable.
 - (c) The RAPM may need to consult with other FPAC personnel (e.g., an employee's supervisor, Information Technology staff) or outside sources to obtain information necessary to make a determination about the request. FPAC expects that all agency personnel will give a high priority to responding quickly to a RAPM's request for information or assistance. Any delays by FPAC personnel may result in the agency's failing to meet the required time frame.

d. **Medical Documentation.** In determining whether medical documentation is necessary to support a request for reasonable accommodation and whether an applicant or employee has a disability, the definition of “disability” will be construed 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, the RAPM 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, FPAC is entitled to ask the employee or applicant to arrange for FPAC to receive medical documentation. This can include the employee or applicant arranging for FPAC 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 FPAC where the current disability and/or need for accommodation are not obvious or already known.

- (1) The agency has the right to have medical information reviewed by a medical expert chosen by the agency at the agency’s expense.
- (2) The RAPM 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. Documentation requested must include a description of 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. 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 the RAPM of this fact. The RAPM 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 the RAPM to determine whether the individual has a “disability” and/or that an accommodation is needed, the RAPM will explain what additional information is needed. If sufficient medical information is not provided by the individual after several attempts, the request may be denied due to a lack of insufficient medical documentation.

(a) Medical documentation may be insufficient if, for example:

- 1 it does not specify the existence of a disability;
- 2 it does not explain the need for the reasonable accommodation;

- 3 the health care professional does not have the expertise to give an opinion about the medical condition and the limitations imposed by it;
 - 4 the information does not specify the functional limitations currently due to the disability; or,
 - 5 other factors indicate that the information provided is not credible or is fraudulent.
- e. **Granting a Request.** When the deciding official determines that an accommodation will be provided, that decision should be communicated immediately to the individual making the request. If the accommodation cannot be provided immediately, the deciding official must inform the individual of the projected time frame for providing the accommodation. This decision should be documented on Form EEOC 557a. This form should be provided within three (3) business days to the RAPM to provide record of the accommodation granted. In the alternative, the deciding official may use the form provided in Appendix B in place of the Form EEOC 557a.
- f. **Denial of Request.** When the deciding official determines that an accommodation will be denied, the deciding official must inform the employee, documenting the decision on Form EEOC 557a. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. Where the deciding official has denied a specific requested accommodation, but offered to make a different one in its place, which was not agreed to by the disabled individual, the denial notice should explain both the reason for the detail of the requested accommodation and the reason that the deciding official believes that the chosen accommodation will be effective. Reason for the denial of a request for reasonable accommodation might include the following:
- (1) the employee/applicant is not a qualified individual with a disability;
 - (2) the requested accommodation would not be effective;
 - (3) providing the requested accommodation would result in undue hardship for the agency;
 - (4) the medical documentation is inadequate to establish that the requestor is an individual with a disability and/or needs a reasonable accommodation;
 - (4) the requested accommodation would require removal of an essential function of the position; or,
 - (5) the requested accommodation would require the lowering of a performance or production standard.

- g. **Reconsideration.** An individual who is dissatisfied with the resolution of a reasonable accommodation decision can request that the decision be reconsidered. The FPAC Chief Human Capital Officer (CHCO) will be the reviewing official for requests for reconsideration. All requests for reconsideration must be sent to the CHCO within 10 business days of the date of the decision. A request for reconsideration will not extend the time limits for initiating administrative, statutory, or collective bargaining claims.

An individual who chooses to pursue statutory or collective bargaining remedies for denial of reasonable accommodation must:

- (1) For an EEO complaint: contact an EEO counselor in the Office of Civil Rights within 45 calendar days from the date of receipt of the written resolution notice or a verbal response to the request (whichever comes first). The 45-calendar-day filing period may not be applicable where there is an unreasonable delay in making a decision regarding an accommodation and the applicant or employee files a challenge before the decision is made.
 - (2) For a collective bargaining claim: file a written grievance in accordance with the provisions of the Collective Bargaining Agreement.
 - (3) For adverse actions over which the U.S. Merits Systems Protection Board has jurisdiction: initiate an appeal to the MSPB within 30 calendar days of the appealable adverse action as defined in 5 C.F.R. § 1201.3.
- h. A supervisor who believes that an employee may no longer need a reasonable accommodation should contact the RAPM. The RAPM will decide if there is a reason to contact the employee to discuss whether he or she has a continuing need for reasonable accommodation.

9. TYPES OF ACCOMMODATIONS AVAILABLE

Although this list is not all-inclusive, types of accommodations can include:

- a. Assistive technology devices or software (such as screen readers), communications equipment, or specially designed furniture;
 - (1) Note that providing employees with computers is the agency's responsibility because computers are a required piece of equipment for any FPAC employee.
 - (2) Most requests for assistive technology will be provided by the DOD Computer/Electronic Accommodations Program (CAP) through the USDA TARGET Center.
- b. Readers or other staff assistants to enable employees to perform their job functions;
 - (1) Effective January 3, 2018, Section 501 of the Rehabilitation Act requires federal agencies to provide Personal Assistance Services (PAS) on the job as part of their affirmative action requirements.

- (2) Agencies are requested to provide an employee with PAS during work hours and job-related travel if:
 - (a) the employee requires such services because of a targeted disability;
 - (b) providing of such services would enable the employee to perform the essential functions of his or her position; and,
 - (c) the provision of such services would not impose undue hardship on the agency.
 - (3) FPAC may require PAS providers to provide personal assistance services to more than one individual. FPAC may also require PAS providers to perform tasks unrelated to personal assistance services, but only to the extent that doing so does not result in their failure to provide personal assistance services in a timely manner.
 - (4) If an agency is hiring a PAS provider who will be assigned to a single individual, and if that individual prefers a particular provider (e.g., because the provider has worked with him or her in the past), the agency must give primary consideration to the employee's choice to the extent permitted by law. However, it may not be possible to honor the individual's preferences in all cases.
- c. Certain changes to buildings or facilities;
 - d. Materials in alternative formats, such as Braille;
 - e. Modifying work schedules or supervisory methods (such as providing assignments verbally and in writing);
 - f. Granting breaks or providing leave;
 - g. Altering how or when job duties are performed;
 - h. Removing and/or substituting marginal functions;
 - i. Moving to different office space;
 - j. Providing telework beyond that provided by the collective bargaining agreement, or USDA policy;
 - k. Making changes to workplace policies; and,
 - l. Providing a reassignment to another job.

10. 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 agency. 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 RAPM should work with the Office of the CHCO to assess the request. The RAPM shall review the employee's file and may contact the employee's supervisor to confirm that the reasonable accommodation process occurred consistent with this policy. If the employee has not participated in the reasonable accommodation process, the RAPM shall follow the process outlined in this policy for processing accommodation requests prior to providing reassignment.
- c. Reassignments will be made to vacant positions only. A position is considered a "vacant" position when a request to initiate a recruitment action has been received in the Office of the CHCO and/or the agency indicates/confirmes that a vacant position exists. FPAC reassignments are to be considered first before reassignments to other agencies within USDA are assessed. FPAC cannot reassign an employee if no vacant 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 positions are available at the employee's grade, and the employee has indicated a willingness to consider such positions. There is no guarantee of pay retention if a lower graded position is identified.
- f. Human Resources will have up to 90 calendar days from the date of the employee's request for reassignment to locate a vacant position for which the employee is qualified. Once Human Resources finds a position that is suitable for the requestor, there is no further obligation to find any additional vacancies if the requestor does not accept the position identified.

11. ADDITIONAL RESOURCES

If an applicant or deciding official needs additional information regarding reasonable accommodation, the following websites are available:

- a. **EEOC Enforcement Guidance** – *Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act* (October 17, 2002)
<https://www.eeoc.gov/policy/docs/accommodation.html>
- b. **EEOC Enforcement Guidance** – *Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act* (July 27, 2000)
<https://www.eeoc.gov/policy/docs/guidance-inquiries.html>
- c. **Job Accommodation Network (JAN)** 1-800-232-9675 (Voice/TT) <http://janweb.icdi.wvu.edu/>

A service of the Office of Disability Employment Policy, JAN can provide information, free-of-charge, about many types of reasonable accommodations and provide referrals to other organizations that may have particular information about accommodations for persons with different disabilities.

CONFIRMATION OF REQUEST FOR REASONABLE ACCOMMODATION							
1.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Applicant's or Employee's Name</td> <td style="width: 50%;">Applicant's or Employee's Telephone No.</td> </tr> <tr> <td>Today's Date</td> <td>Employee's Office</td> </tr> <tr> <td>Date of Request</td> <td></td> </tr> </table>	Applicant's or Employee's Name	Applicant's or Employee's Telephone No.	Today's Date	Employee's Office	Date of Request	
Applicant's or Employee's Name	Applicant's or Employee's Telephone No.						
Today's Date	Employee's Office						
Date of Request							
2.	ACCOMMODATION REQUESTED. <i>(Be as specific as possible, e.g., adaptive equipment, reader, interpreter)</i>						
3.	<p>REASON FOR REQUEST.</p> <p>If accommodation is time sensitive, please explain:</p> <p>Return Form to Reasonable Accommodation Program Manager (Reasonable Accommodation Program Manager will assign number)</p>						
4.	Log No.: _____						

EEOC Form 557 Revised 2/2018

RESOLUTION OF REASONABLE ACCOMMODATION REQUEST

(Must complete numbers 1-3; complete number 5, if applicable)

1. Name of Individual requesting reasonable accommodation:

2. Accommodation(s) requested:

3. Accommodation(s): approved as specifically requested
 approved but different from original request
 denied

***If the approved accommodation is different from the one(s) originally requested, identify the alternative accommodation(s):**

4. If an alternative accommodation was offered, indicate whether it was:

accepted
 rejected

5. Request denied because: (may check more than one box)

- Requestor does not have a Rehabilitation Act disability
- Accommodation ineffective
- Accommodation would cause undue hardship
- Medical documentation inadequate
- Accommodation would require removal of essential function
- Accommodation would require lowering performance or production standard
- Other (Please identify)

6. Detailed reason(s) for the denial (Must be specific, e.g., *why* accommodation is ineffective or causes undue hardship):

7. If the deciding official offered an accommodation that is different from the one originally requested, explain: (a) the reasons for the denial of the accommodation originally requested; and (b) why the alternative accommodation would be effective.

8. An individual who disagrees with the resolution of the request may ask the Director, Office of Diversity and Inclusion, to reconsider that decision within 10 business days of receiving the Resolution of Reasonable Accommodation Request form. Note that requesting reconsideration does not extend the times limits for initiating administrative, statutory, or collective bargaining claims.

9. If you are dissatisfied with the resolution and wish to pursue administrative, statutory, or collective bargaining rights, you must take the following steps:
 - For an EEO complaint pursuant to 29 C.F.R. § 1614, contact an EEO official within the Office of Civil Rights within 45 days from the date of receipt of this form or a verbal response (whichever comes first).
 - For a collective bargaining claim, file a written grievance in accordance with the provisions of NSF's Collective Bargaining Agreement.
 - For adverse actions over which the Merit Systems Protection Board (MSPB) has jurisdiction, initiate an appeal to the MSPB within 30 days of an appealable adverse action as defined in 5 C.F.R. § 1201.3.

Name of Deciding Official

Signature of Deciding Official

Date reasonable accommodation denied/approved _____

EEOC Form 557a

APPENDIX C



United States Department of Agriculture

[insert date]

SUBJECT: Reasonable Accommodation Request – *EMPLOYEE NAME*

TO: *EMPLOYEE NAME*
POSITION
LOCATION

The Agency received a reasonable accommodation request from you on *[insert date]*, and on *[insert date]*, you and your treating physician provided sufficient documentation in support of your request. An official determination has been made that your medical condition qualifies you as a person with a disability as defined by the Rehabilitation Act of 1973, and by the Americans with Disabilities Amendment Act.

On *[insert date]*, we received an official memorandum from Colette Ross, Reasonable Accommodation Program Manager, informing us of that determination and providing me with effective accommodation(s) in order to allow you to continue performing your assigned duties.

As you may know, a reasonable accommodation is any change in the work environment that would enable people with disabilities to perform the essential functions of a job. Employees are not entitled to his or her preferred accommodation. The Agency is responsible for determining if any accommodation is possible and what that accommodation might be.

ACCOMMODATION DETERMINATION: After reviewing your request for reasonable accommodations and the official memorandum provided by Colette Ross, it is my decision to offer you the following reasonable accommodation(s) to support your needs:

- *[insert the accommodation(s) being offered]*

You as the employee have the right to refuse any accommodation. However, if you cannot perform the essential functions of the job with or without an accommodation, you can be deemed unqualified to perform the duties and responsibilities of the job. As such, I ask that you notify me by email, within 3 business days from receipt of this memorandum and sign below, if you accept or refuse the accommodation(s) specified above.

___ Accept or ___ Refuse

Employee Signature

Date

If you need additional information or have questions regarding this response feel free to contact *[provide an on-site contact person at (xxx) xxx-xxxx or email address]*.

Respectfully,

[Insert Supervisor Name]
[Insert Title]

cc: Colette Ross, Reasonable Accommodation Program Manager