

PROCEDURES FOR PROVIDING REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH DISABILITIES

Revised 4/2016

**PROCEDURES FOR PROVIDING REASONABLE ACCOMMODATION
FOR INDIVIDUALS WITH DISABILITIES
TABLE OF CONTENTS**

- I. National Capital Planning Commission Policy on Reasonable Accommodation**
- II. Reasonable Accommodation Procedures**
 - A. Requesting Reasonable Accommodation**
 - B. Processing the Request**
 - C. The Interactive Process**
 - D. Requests for Medical Information**
 - E. Confidentiality Requirements**
 - F. Time Frame for Processing Requests and Providing Reasonable Accommodations**
 - G. Resolution of the Reasonable Accommodation Request**
 - H. Informal Dispute Resolution**
 - I. Compliance**
 - J. Custody of Records, Information Tracking and Reporting**
 - K. Inquiries**

Appendix A/ GSA Form 3676 - Confirmation of Reasonable Accommodation Request

Appendix B/ GSA Form 3677 Review of Reasonable Accommodation Request

Appendix C/Selected Reasonable Accommodation Resources

I. National Capital Planning Commission Policy on Reasonable Accommodation

Executive Order 13614 requires all Federal Agencies to establish procedures on handling requests for reasonable accommodation.

NCPC's Procedures fully comply with the requirements of the Rehabilitation Act of 1973. Under the law, NCPC must provide reasonable accommodation to qualified employees or applicants with disabilities,¹ unless to do so would cause undue hardship. The NCPC is committed to providing reasonable accommodations to its employees and applicants for employment to ensure that individuals with disabilities enjoy equal access to all employment opportunities. NCPC provides reasonable accommodations:

- when an applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
- when an employee with a disability needs an accommodation to perform the essential functions of the job or to gain access to the workplace; and
- when an employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., details, trainings, office-sponsored events).

A reasonable accommodation is any change in the workplace or the way things are customarily done that provides an equal employment opportunity to an individual with a disability. While there are some things that are not considered reasonable accommodations (e.g., removal of an essential job function or personal use items such as a hearing aid that is needed on and off the job), 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 such as the kitchen and office events.

Common types of accommodations include:

- modifying work scheduled or supervisory methods
- granting breaks or providing leave
- altering how or when job duties are performed
- removing and/or substituting a marginal function
- moving to different office space
- making changes in workplace policies
- providing assistive technology, including information technology and communications equipment or specially designed furniture

¹ All references to "disability" in these Procedures refer only to those impairments that meet the ADA/Rehabilitation Act definition of "disability" as amended by the ADA Amendments Act of 2008 (ADAAA). The expanded definition of "disability" is to be interpreted broadly and does not require an extensive analysis.

The Rehabilitation Act, as amended by the ADAAA, does not require an employer to provide reasonable accommodation to an individual who only meets the "regarded as" definition of disability. An applicant or employee must meet either the "actual" definition (i.e., person has an impairment that substantially limits a major life activity) or the "record of" definition (i.e., person has a record of an impairment that substantially limited a major life activity) to be eligible for reasonable accommodation.

- removing an architectural barrier, including reconfiguring work spaces
- Providing materials in alternative formats (e.g., Braille, large print)
- Providing a reassignment to another job.

NCPC will process requests for reasonable accommodation and will provide reasonable accommodations where appropriate, in a prompt and efficient manner in accordance with the time frames set forth in these Procedures.

NCPC has a Disability Program Manager (DPM) to oversee the reasonable accommodation program. All requests for reasonable accommodation will be handled by the DPM. If a request is given to a manager rather than directly to the DPM, that individual should forward the request immediately and must do so within 2 business days. When an employee makes a request for reasonable accommodation that involves performance of the job, the DPM will work with the employee's supervisor to ensure that an appropriate accommodation is provided that meets the individual's disability-related needs and enables the individual to perform the essential functions of the position. See Section II. J. on how to contact the DPM.

As part of the reasonable accommodation interactive process, the DPM will obtain and evaluate documentation supporting an accommodation request (such as medical documentation demonstrating that the requester is an individual with a disability), whenever the disability or need for accommodation is not obvious.

Sometimes NCPC may be able to address an employee's impairment-related needs outside the reasonable accommodation process. For example, NCPC has an agreement with the Federal Occupational Health Program and the Computer/Electronic Accommodation Program ² to provide ergonomic services to all employees who may require special equipment to address or prevent various ailments. Under the ergonomic program, for instance, an employee with carpal tunnel syndrome may request a specialized chair or wrist pad. Request under these procedures, as well as requests under the ergonomic program, should be directed to the DPM.

While the DPM will handle all requests for reasonable accommodations, managers often will need to be consulted about specific requests. Therefore, all management personnel must be familiar with these Procedures.

II. Reasonable Accommodation Procedures

A. Requesting Reasonable Accommodation

Generally, an applicant or employee must let the NCPC know that he/she needs an adjustment or change concerning some aspect of the application process, the job, or a benefit of employment for a reason related to a medical condition. An **applicant or employee** may request a reasonable accommodation at any time, **orally or in writing**. An individual should request a reasonable

² NCPC has entered into an agreement with the Computer/Electronic Accommodations Program (Department of Defense) to provide assistive technology, devices and services to employees of NCPC.

accommodation from the DPM. For applicants, information about contacting the DPM will be in the vacancy. (See also Section II.K. on how to contact the DPM.)

If an employee makes a reasonable accommodation request to someone other than the DPM, such as their supervisor or second level supervisor, the contacted individual should forward the request to the DPM immediately and must do so within 2 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 DPM within 2 business days.**

An individual's receipt of a denial for an accommodation does not prevent the individual from making another request at a later time if circumstances change and he/ 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 DPM 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).

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/she needs NCPC to provide or to change something because of a medical condition. A supervisor or the DPM should ask an individual whether she is requesting a reasonable accommodation if the nature of the initial communication is unclear.

A family member, health professional, or other representative may request an accommodation on behalf of a NCPC employee or applicant. For example, a doctor's note outlining medical restrictions for an employee constitutes a request for reasonable accommodation.

When an individual makes an oral request, the DPM must ensure that the **"Confirmation of Reasonable Accommodation Request" form** is filled out (See Appendix A). The DPM must fill out the Form if the requestor does not.

B. Processing the Request

The DPM is responsible for processing requests for reasonable accommodation. The Human Resources Specialist will serve as a back-up for the DPM to process requests when the DPM is unavailable for any length of time (on vacation or extended leave). While the DPM has the responsibility for processing requests for reasonable accommodation, the DPM may work closely with an employee's supervisor in responding to the request, particularly those involving performance of the job. The DPM 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. The DPM will issue a final decision in writing to the requestor.

C. The Interactive Process

1. Generally

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 DPM 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.

The DPM will contact the applicant or employee within 10 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 DPM 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 the NCPC (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).

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. Appendix C lists some suggested resources for identifying accommodations.

When a third party (e.g., an individual's doctor) requests accommodation on behalf of an applicant or employee the DPM should, if possible, confirm with the applicant or employee that he/she wants a reasonable accommodation before proceeding. Where this is not permissible, for example, because the employee has been hospitalized in an acute condition, the DPM 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.

The DPM may need to consult with other NCPC personnel (e.g., an employee's supervisor, Information Technology staff, or a representative from the CAP Technology Evaluation Center) or outside sources to obtain information necessary to make a determination about the request. **NCPC expects that all agency personnel will give a high priority to responding quickly to a DPM's request for information or assistance. Any delays by NCPC personnel may result in the agency's failing to meet the required time frame.**

2. Reassignment

There are specific considerations in the interactive process when an employee needs, or may need, a reassignment.

- Generally, reassignment will only be considered if no accommodations are available to enable the individual to perform the essential functions of his or her current job, or if the only effective accommodation would cause undue hardship.
- In considering whether there are position available for reassignment, the DPM will work with the employee requesting the reassignment to identify: (1) vacant positions, if any, within the agency for which the employee may be qualified, with or without reasonable accommodation; and (2) positions which the Office of Administration has reason to believe will become vacant within **60 days** from the date the search is initiated and for which the employee may be qualified.

D. Requests for Medical Information

If a requestor's disability and/or need for accommodation are not obvious or already known, NCPC (specifically the DPM) is entitled to ask for and receive medical information showing that the requestor has a covered disability that requires accommodation. A disability is obvious or already known when it is clearly visible or the individual previously provided medical information showing that the condition met the Rehabilitation Act definition. It is the responsibility of the applicant/employee to provide appropriate medical information requested by NCPC where the disability and/or need for accommodation are not obvious or already known.

Only the DPM may determine whether medical information is needed and, if so, may request such information from the requestor and/or the appropriate health professional if the requester signs a release permitting the DPM to contact the health professional. Even if medical information is needed to process a request, the DPM does not necessarily have to ask the requester to provide medical documentation from a health care provider; in many instances the requestor may be able to provide sufficient information that can substantiate the existence of a "disability" and/or need from a reasonable accommodation. (See Section II.E. about the confidentiality of all medical information obtained in processing a request for accommodation.) If an individual has already submitted medical documentation in connection with a previous request for accommodation, the individual should immediately inform the DPM of this fact. The DPM will then determine whether additional medical information is needed to process the current request. NCPC may request information or documentation regarding:

- The nature, severity, and duration of the individual's impairment;
- The activity or activities that the impairment limits;
- The extent to which the impairment limits the individual's ability to perform the activity or activities; and/or
- Why the individual requires reasonable accommodation or the particular reasonable accommodation requested, as well as how the reasonable accommodation will assist the

individual to apply for a job, perform the essential functions of the job, or enjoy a benefit of the workplace.

If the Initial information provided by the health professional or volunteered by the requestor is insufficient to enable the DPM to determine whether the individual has a “disability” and/or that an accommodation is needed, the DPM will explain what additional information is needed. If necessary, the individual should then ask his/her health care provider or other appropriate professional to provide the missing information. The DPM 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, the DPM may ask the individual requesting an accommodation to sign a limited release permitting the DPM to contact the provider for additional information. The DPM may have the medical information reviewed by a doctor of the agency’s choosing, at the agency’s expense.

In determining whether documentation is necessary to support a request for reasonable accommodation and whether an applicant or employee has a disability within the meaning of the Rehabilitation Act, the DPM will be guided by principles set forth in the ADA Amendments Act of 2008. Specifically, the ADA Amendments Act directs that the definition of “disability” be construed broadly and that the determination of whether an individual has a “disability” generally should not require extensive analysis. Notwithstanding, the DPM may require medical information in order to design an appropriate and effective accommodation.

A supervisor who believes that an employee may no longer need a reasonable accommodation should contact the DPM. The DPM will decide if there is a reason to contact the employee to discuss whether he/she has a continuing need for reasonable accommodation.

E. Confidentiality Requirements

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 NCPC obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual’s personnel file. This includes the fact that an accommodation has been requested or approved and information about functional limitations. It also means that any NCPC employee who obtains or receives such information is strictly bound by these confidentiality requirements.

The DPM 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 DPM will inform the recipients about these confidentiality requirements. The information disclosed will be no more than is necessary to process the request. In certain situation, the DPM 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.

In addition to disclosures of information needed to process a request for accommodation, other disclosures of medical information are permitted as follows:

- Supervisors and managers are entitled to whatever information is necessary to implement restrictions on the work or duties of the employee or to provide a reasonable accommodation;
- First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or assistance in evacuation; and
- Government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act.

F. Time Frame for Processing Requests and Providing Reasonable Accommodations

1. Generally

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**. This 30-day period includes the 10-day time frame in which the DPM must contact the requestor after a request for reasonable accommodation is made. (See II.C.1.) When a request is made to the DoD Computer/Electronic Accommodations Program to determine if an electronic accommodation is appropriate, the time for processing will likely increase, but will be processed as expeditiously as possible.

If the DPM must request medical information or documentation from a requestor's doctor, or send a request to the Computer/Electronic Accommodations Program, the time frame will stop on the day that the DPM makes a request for information/documentation or equipment (CAP), and will resume on the day that the information/documentation or equipment is received by the DPM.

2. Expedited Processing of a Request

In certain circumstances, a request for reasonable accommodation requires an expedited review and decision. This includes where a reasonable accommodation is needed:

- To enable an applicant to apply for a job. Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decision, there may be a need to expedite a request for reasonable accommodation to ensure that an applicant with a disability has an equal opportunity to apply for a job.
- To enable an employee to attend a meeting scheduled to occur soon.

3. Extenuating Circumstances

These are circumstances that could not reasonably have been anticipated or avoided in advance of the request for accommodation, or that are beyond NCPC's ability to control. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. Extensions will be limited to circumstances where they are absolutely necessary and only for as long as required to deal with the extenuating circumstance.

If a delay occurs in processing a request or delivering the reasonable accommodation, the individual will be notified in writing the reason for the delay and the date the NCPC expects to complete processing of the accommodation. Additionally, NCPC will determine if there is a temporary solution that can be taken to assist the individual until the accommodation can be implemented.

G. Resolution of the Reasonable Accommodation Request

All decisions regarding a request for reasonable accommodation will be communicated to an applicant or employee by use of the “Review of Reasonable Accommodation Request” form (see Appendix B), as well as a written explanation of the decision and an oral discussion, if necessary.

If NCPC grants a request for accommodation, the DPM will provide the “Review of Reasonable Accommodation Request” form to the requestor, with a written explanation of the accommodation provided, and discuss implementation of the accommodation. A decision to provide an accommodation other than the one specifically requested will be considered a decision to grant an accommodation. If the request is approved but the accommodation cannot be provided immediately, the DPM will inform the individual in writing of the projected time frame for providing the accommodation.

If NCPC denies a request for accommodation, the DPM will provide the “Review of Reasonable Accommodation Request” form to the requestor with a written explanation with the reason(s) for the denial to include why the accommodation would result in an undue hardship or why it would be ineffective. If NCPC denies a specific requested reasonable accommodation but offers to make a different one its place, the DPM will explain both reasons for the denial of the requested accommodation and the reasons it believes that the chosen accommodation will be effective.

- If there is a legitimate reason to deny the specific reasonable accommodation request (e.g., the accommodation poses an undue hardship or is not required by the Rehabilitation Act), the DPM will explore with the individual whether another accommodation would be possible. The fact that one accommodation proves ineffective or would cause hardship does not necessarily mean that this would be true of another accommodation. Similarly, if an employee requests removal of an essential function or some other action that is not required by law, the DPM will explore whether there is a reasonable accommodation that will meet the employee’s need.
- If the DPM offers an accommodation other than the one requested, but the alternative accommodation is not accepted, the DPM will document the individual’s rejection of the alternative accommodation.

H. Informal Dispute Resolution

An individual dissatisfied with the outcome of a reasonable accommodation request can ask the Chief Operating Officer to reconsider the request. An individual must request reconsideration within 10 business day of receiving written notification of the outcome of the accommodation

request. A request for reconsideration will not extend the time limits for initiating administrative or statutory claims.

I. Compliance

Two procedures are available to individuals who are dissatisfied with the Agency's response to a request for accommodation, and who wish to seek redress – an EEO complaint or a Merit systems Protection Board (MSPB) appeal.

- For an EEO complaint, an individual should contact the NCPC EEO Manager within 45 days from the date of receipt of the written accommodation notice or a verbal response to the request (whichever comes first).
- For adverse actions over which MSPB has jurisdiction, the individual must initiate an appeal to the MSPB within 30 days of the appealable adverse action (for more information about the process, please contact the Office of Administration).

J. Custody of Records, Information Tracking and Reporting

1. Custody of Records

The Director of the Office of Administration will be the official custodian of the official reasonable accommodation files. As soon as the process is completed (after the decision maker's final decision if reconsideration is not sought or after the reconsideration decision is issued if reconsideration is requested), the DPM or official in possession of the reasonable accommodation request file shall submit the entire record including copies of the request, the decision, and supporting documentation to the Director of the Office of Administration. All records will be maintained in accordance with the Privacy Act and confidentiality and restricted disclosure requirements. NCPC will maintain the individual records of an employee who has requested a reasonable accommodation for the duration of the individual's employment with the agency. NCPC will maintain cumulative records to track agency's performance related to reasonable accommodation for three years.

2. Annual Data

The Director of Administration will prepare an annual report, containing the following information:

- The number of reasonable accommodations requested by type in the application process, and whether those requests were granted or denied;
- The jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested;
- The types of reasonable accommodations that have been requested for each of those jobs;
- The number of reasonable accommodations, by type, for each job that have been approved, and the number of accommodations, by type that have been denied;

- The number of requests for reasonable accommodations by type, that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;
- The reasons for denial of requests for reasonable accommodation;
- The amount of time used to process each request for reasonable accommodation;
- The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

K. Inquiries

Managers, employees or applicants wanting further information concerning these Procedures may contact the Disability Program Manager (DPM) via e-mail at disabilityprogrammanager@ncpc.gov. Applicants may contact the DPM at (202) 482-7200.