DEPARTMENT OF HEALTH AND HUMAN SERVICES
Indian Health Service
Rockville, Maryland 20852

Refer to: OD

INDIAN HEALTH SERVICE CIRCULAR NO. 2004-06

POLICY AND PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH DISABILITIES

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1. PURPOSE. This circular implements the policies and procedures that the Indian Health Service (IHS) will provide to an individual who requests reasonable accommodation (RA).

Distribution: IHS-wide
Date: January 4, 2005

2. BACKGROUND. The Rehabilitation Act of 1973, as amended, requires Federal agencies to provide RA to qualified employees or applicants with disabilities, unless to do so would cause undue hardship to the Federal agency. On July 26, 2000, the President signed Executive Order 13164, "Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation," which requires Federal agencies to establish written procedures for processing requests for RA that have been submitted by employees of the Federal agency for consideration.

For information, employees and applicants may visit the Equal Employment Opportunity Commission (EEOC) Web site at http://www.eeoc.gov and read the following articles: "Enforcement Guidance on Reasonable Accommodation" and "Undue Hardship Under the Americans with Disabilities Act." (See also, Circular Exhibit 2004-06-A) For additional information on the rights and responsibilities of employees and applicants requesting RA, or additional copies of these procedures, you may visit the IHS Web site: http://www.ihs.gov/AdminMngrResources/eeo/index.asp

The U.S. Public Health Service Commissioned Corps Officers are covered under the regulations found in the Department of Health and Human Services (HHS), Commissioned Corps Personnel Manual, Chapter Series CC46. For further information, commissioned officers should contact their Commissioned Corps Liaison Officer.

3. POLICY. The policy of the IHS is to fully comply with the RA requirements of the Rehabilitation Act of 1973 and Executive Order 13164. The IHS is committed to providing RA to its employees and applicants for employment in order to ensure that individuals with disabilities enjoy full access to equal employment at the IHS.

Employees and applicants who require copies of RA procedures in larger print or in Braille may obtain them in the Human Resource (HR) and Equal Employment Opportunity (EEO) Offices. All newly hired employees will receive copies of the appropriate policy statements in their orientation packages. In addition, the requisite supervisory/managerial training must include a component focusing on the supervisor's responsibilities as it relates to EEO issues, including providing RA.

4. DEFINITIONS. The definitions below for the terms "disability" and "reasonable accommodation" are consistent with 29 Code of Federal Regulations (CFR) 1614.203.

A. Categories of Reasonable Accommodations. Categories of RA as defined in Title I of the Americans with Disabilities Act of 1990:

(1) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires.

(2) Modifications or adjustments to the work environment, or the manner or circumstances under which the position held or desired is customarily performed, that enables a qualified individual with a disability to perform the essential functions of that position.

(3) Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

B. Essential Functions. Those job duties that are fundamental to the position that the individual holds or desires that he or she cannot do the job without performing them. A function can be "essential" if, among other things:

(1) the position exists specifically to perform that function,

(2) there are a limited number of other employees who could perform the function, or

(3) the function is specialized and the individual is hired based on his/her ability to perform it.

Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as it is actually performed and not simply the components of a generic position description.

C. Individual With a Disability. An individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

D. Major Life Activities. The EEOC provides the following examples of life activities: caring for oneself, performing manual tasks, seeing, hearing, speaking, breathing, learning, working, sitting, lifting, and mental or emotional processes such as, thinking, concentrating, and interacting with others.

E. Qualified Individual with a Disability. An individual with a disability is qualified if:

(1) he or she satisfies the requisite skill, experience, education, and other job-related requirements of the position; and

(2) he or she can perform the essential functions of the position, with or without a RA.

F. Reasonable Accommodation. Reasonable accommodation is any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities.

G. Reassignment. Reassignment is a form of RA that, absents undue hardship, can be provided to employees who, because of a disability, can no longer perform the essential functions of their job, with or without RA. Reassignments are made only to vacant positions and to employees who are qualified for the new position. If the employee is qualified for the position, he or she will be reassigned to the job and not have to compete for it. Applicants for positions with the IHS are not eligible for reassignment as a form of RA.

H. Undue Hardship. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the RA needed and the impact of the RA on the operations of the IHS. The IHS does not have to provide a particular accommodation if a specific type of a RA causes significant difficulty or expense.

5. RESPONSIBILITIES.

A. The Director, Equal Employment Opportunity and Civil Rights Staff. The Director, Equal Employment Opportunity and Civil Rights Staff (EEO/CR), will:

(1) oversee the IHS RA program and ensure fair and equitable application to all affected employees;

(2) provide technical assistance (TA), guidance and oversight to management officials, supervisors, employees, and Area EEO staffs;

(3) assist management in evaluating RA requests;

(4) identify barriers to the implementation of the RA program;

(5) develop and keep current training modules on the RA program for use IHS-wide; and

(6) ensure that all labor-management obligations are satisfied prior to implementation and are maintained.

B. Immediate Supervisors. Immediate supervisors will:

(1) review employee requests for RA promptly;

(2) request, and once provided, review additional medical information in a prompt and confidential manner;

(3) approve or disapprove the request after consultation with the Director, EEO/CR, or (if the request is submitted by an Area employee) the Director, Area HR Office and/or Area EEO Manager; and

(4) ensure that employees' approved requests for RA are implemented in a prompt manner.

C. Second-line Supervisors. Second-line supervisors will:

(1) reconsider all disapproved RA requests in a prompt manner after consultation with the Director, EEO/CR, or (if the request is submitted by an Area employee) the Director, Area HR Office and/or Area EEO Office; and consider all appropriate information about the employee's work and medical situation.

(2) Approve or disapprove the request.

D. Area EEO Managers. The Area EEO Managers will:

(1) oversee the RA program and ensure fair and equitable application to all affected employees in their Area;

(2) provide TA and guidance to Area management officials, supervisors, and employees;

(3) assist Area management in evaluating requests;

(4) disseminate RA program material and information using appropriate media; and

(5) ensure Area management and employees receive appropriate RA training.

E. Area HR Officer. The Area HR Officer will:

(1) assist management in evaluating a request for RA,

(2) ensure that the approval of RA does not violate the merit promotion plan and/or Indian Preference circular, and

(3) compile data regarding RA requests in consultation with EEO/CR .

F. Employees/Applicants. Employees/applicants will:

(1) promptly submit their RA request as well as any medical information requested;

(2) provide appropriate medical information related to the functional impairment and the requested accommodation; and

(3) promptly provide additional medical information, if required, during the evaluation of the request to the requesting management official. Failure to do so could result in the denial of the request due to lack of medical documentation.

6. REQUESTS FOR REASONABLE ACCOMMODATION.

A. Initial Request. An initial request for RA is either an oral or written statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition.

B. Form of Initial Request. A request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request RA whenever he/she chooses, even if he/she has not previously disclosed the existence of a disability. An individual with a disability may request RA orally or in writing.

C. Reasonable Accommodation Process. The RA process begins as soon as the request for the accommodation is made.

D. Timeframes. The timeframe for responding to a request begins from the moment of the initial oral or written request. (See Sections 6B, 6C, 7G, and 7H.)

E. Application Process. Applicants with disabilities may request RA of the IHS. The HR Officer is responsible for training staff involved in the application process to recognize requests for RA and to handle them appropriately. Requests by applicants for RA may be made orally or in writing.

F. Submission of Request. Employees may submit RA requests to the immediate supervisor or to the person acting in his/her place, or another manager in the chain of command, or the Office/Area Director, or Disability Program Manager. A copy of the request must be provided to the EEO Office of the organizational component to which the individual is assigned.

The person who receives the RA request must complete the attached EEOC Form, "Confirmation of Request for Reasonable Accommodation." (See Circular Exhibit 2004-06-B.)

G. Employee/Applicant Representative. A family member, health professional, or other representative may request an accommodation on behalf of an IHS employee or applicant. The request should be made to one of the same people to whom the employee or applicant would make the request.

7. RESPONDING TO A REQUEST FROM AN EMPLOYEE.

A. Decisionmaker. The decisionmaker is the person who responds to the request for accommodation.

B. Processing the Request. The IHS will process requests for RA and provide accommodations, when appropriate, in as short a timeframe as is reasonably possible. The IHS recognizes, however, the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information. However, officials should move quickly to comply with requests because failure to respond promptly to a request may result in a violation of the Rehabilitation Act. Communication is a priority throughout the entire process.

C. Expedited Processing. In certain circumstances, a request for RA requires an expedited review and decision in a shorter timeframe than the 15 or 20 workdays discussed below in Section 7G and 7H. This includes when RA is needed:

(1) To Enable an Applicant to Apply for a Job. Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for RA to ensure that an applicant with a disability has an equal opportunity to apply for a job. The Director, HR Office, must move as quickly as possible to make a decision and provide RA, if appropriate.

(2) To Enable an Employee to Attend a Meeting Scheduled to Occur Shortly. For example, an employee may need a sign language interpreter for a meeting scheduled to take place in 5 days.

D. Acknowledgment of Receipt. The immediate supervisor who receives a request for RA will acknowledge the receipt of the oral or written request within 5 workdays by providing the requesting employee with a copy of the written confirmation. If the individual does not receive an acknowledgment within 5 workdays, he/she should contact the second-line supervisor directly.

While the written confirmation should be made as soon as possible following the request, it is not a prerequisite for the request to be processed. The IHS will begin processing the request as soon as it is made, whether or not the confirmation has been provided.

E. Written Confirmation. A written confirmation is not required each time the immediate supervisor receives a repeated request for RA (e.g., the assistance of sign language interpreters or readers).

F. Reasonable Accommodation Request. The RA request is required only for the initial request, although the employee must give notice each time a new accommodation is needed.

G. Interactive Process. The immediate supervisor initiates the interactive process. This process will be used to obtain any additional information, discuss specific limitations or other problems, when the barrier is unclear, when an effective accommodation is not obvious, or when the parties are choosing between different possible RAs. If a request for an accommodation can be approved by the requesting employee's supervisor, supporting medical documentation is not required, and no extenuating circumstances exist, the request shall be provided in no more than 15 workdays from the date of the initial request.

H. Higher-level Approval. If the request for accommodation cannot be granted within 15 workdays, the immediate supervisor will elevate the request to the employees' second-line supervisor to render a final decision. The final decision will be issued within 20 workdays of the initial request. This timeframe will include the second-line supervisor's decision to allocate funds, review the request for reconsideration of denial, or seek an appropriate accommodation.

8. RESPONDING TO A REQUEST FROM AN APPLICANT.

If the request for RA occurs during the application and interview process or to enable participation in an Agency activity scheduled to occur shortly, the request will be processed expeditiously. Due to the short timeframe implicit in the application and interview process, the HR Officer will be contacted immediately if there is any issue that could delay or prevent the IHS from providing the requested accommodation.

9. MEDICAL DOCUMENTATION/INFORMATION NEEDED.

A. Relevant Medical Information. The IHS has the right to request relevant medical information that describes the disability and the need for accommodation if it is not obvious or already known. The medical information should contain a brief description of the disability, the functional limitations at issue, and a clarification

of how the requested accommodation will assist the individual to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace. The description should be limited to the job-related, essential functions for which the accommodation is requested. If medical documentation is required, the timeframes are suspended until the requested medical documentation is submitted.

B. Additional Documentation. The individual may be asked to obtain additional documentation, if the medical information is not clear, and may be asked to sign a limited release of medical information. If a determination is made to seek additional medical information, the IHS will request information sufficient to substantiate that the individual has a disability and needs the RA requested but will not ask for unrelated documentation. The management official requesting the additional documentation will explain to the individual the specific information needed and to whom it should be submitted. The individual requesting RA will be responsible for obtaining the requested information.

10. SECOND OPINION.

The purpose of obtaining a second opinion is to clarify how the disability affects the individual's ability to carry out the duties of his/her position and how the requested accommodation will improve the individual's ability to perform these duties. When the medical documentation submitted to IHS management is not clear in this respect, the individual will be informed in writing why the submitted documentation is insufficient and be given an opportunity to provide additional documentation. If the individual is still unable to provide sufficient information to support the request, the IHS is responsible for having the documentation reviewed by a medical expert chosen by the Agency.

In some cases, the immediate supervisor may need to arrange for the individual to be seen by a medical expert chosen by the IHS. If sought, the second opinion will be at the expense of the IHS.

11. SELECTION OF AN ACCOMMODATION.

The supervisor will consult with the person who made the request before deciding on the specific accommodation. The individual with a disability may know exactly how well a particular accommodation will meet his/her needs. The individual may need to test the accommodation if he/she has not used it before. This applies to assistive devices, computer programs, facility modifications, and other services. When procuring or arranging personal services such as readers and interpreters, the individual will be allowed to use the services on a trial basis, or at least conduct an interview, before the decision is made to use the services of a specific service provider.

If the individual is uncomfortable with the level of competence of the service provider (in the case of readers and interpreters) or believes that the accommodation suggested will be inadequate, the RA has not been met, and management must work with the individual until these issues are resolved.

12. PROVISION OF AN ACCOMMODATION - ATTITUDES.

It is assumed that when an individual requests an accommodation it is because he/she wishes to improve job performance or participation in IHS events. It is not appropriate to draw attention to the accommodation unless the individual requests it. For example, it is appropriate to introduce an interpreter at an IHS event but not to identify the individual who requires such assistance.

13. PROVISION OF AN ACCOMMODATION - FUNDING.

Costs for RA will be absorbed by the IHS. The immediate supervisor will arrange payment for any costs connected with RA from his/her respective budget. Offices should anticipate the expense of RA and should include such expenses in their budget planning and requests for each fiscal year (FY).

14. EXTENSIONS/DELAYS UNDER SPECIAL CIRCUMSTANCES.

A. Extenuating Circumstances. Extenuating circumstances cover limited situations or factors in which unforeseen or unavoidable events preclude the Agency from making a decision in a timely manner. The IHS may not delay processing or providing an accommodation because a particular staff member is unavailable. When extenuating circumstances are present, the time for processing a request for RA and providing the accommodation will be extended as reasonably necessary. All IHS staff are expected to act as quickly as is reasonably possible in processing requests and providing accommodations. When extenuating circumstances are present, the immediate supervisor must notify the individual of the reason for the delay and the approximate date on which a decision, or provision of the RA, is expected. Any further developments or changes should also be communicated promptly to the individual.

B. Examples. The following are examples of extenuating circumstances:

(1) There has been an outstanding initial or follow-up request for medical information, and/or the IHS is evaluating the medical information that has been provided.

(2) The purchase of equipment may take longer than 15 or 20 workdays because of requirements under the Federal Acquisition Regulations and EEOC Order 360.001, "Acquisition Policies and Procedures."

(3) Equipment must be back-ordered, the vendor typically used by the IHS for goods or services has unexpectedly gone out of business, or the vendor cannot supply the needed goods or services promptly, and another vendor is not immediately available.

(4) The employee with a disability needs to use the equipment on a trial basis to ensure that it is effective before IHS buys it.

(5) New staff needs to be hired or contracted.

(6) An accommodation involves the removal of architectural barriers.

C. Temporary Measures. If there is a delay in providing an accommodation which has been approved, the immediate supervisor must investigate whether temporary measures can be taken to assist the employee. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation. In addition, the supervisor may provide measures that are not RAs within the meaning of the law (e.g., temporary removal of an essential function) if they do not interfere with the operations of the IHS, and the employee is clearly informed that they are being provided only on a temporary, interim basis. All IHS supervisors who approve such temporary measures are responsible for ensuring that they do not take the place of a permanent accommodation, and all necessary steps to secure the permanent accommodation are being taken. For example:

(1) There may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the supervisor might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as many duties of the job as possible until the equipment arrives.

(2) If a delay is attributable to the need to obtain or evaluate medical documentation and the IHS has not yet determined that the individual is entitled to an accommodation, the IHS may also provide an accommodation on a temporary basis. In such a case, the immediate supervisor will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request.

15. INCLEMENT WEATHER.

Individuals with disabilities are often more adversely impacted by inclement weather and may not be able to commute safely. When weather conditions make it difficult or dangerous for an individual to travel to work and the individual's duties can be performed from another location, the IHS will allow the individual to work from home, as RA. These arrangements must be in accordance with the Part 7, Chapter 6, "Flexible Workplace Arrangements Program," Indian Health Manual (IHM). If the employee's request is denied, the employee may contact the second-line supervisor.

16. REASSIGNMENT.

In rare cases, if no other RA is available to allow the employee to perform the essential functions of his/her position, the IHS will consider reassignment. Reassignment is a last resort accommodation that may be considered if there are no effective accommodations that would enable the employee to perform the essential functions of his/her job or if all other possible accommodations would impose undue hardship. The employee must be qualified for the new position. **All actions will be in accordance with the Indian preference laws.**

A. Rationale for Reassignment. The IHS may consider reassigning the employee if it cannot find an accommodation that will permit the employee to perform the essential functions of his/her current position. When, for example, the only suitable accommodation would provide an undue hardship for the IHS, the employee may be reassigned to a different position for which he/she is qualified. The employee must possess the requisite skills, experience, education, and other job-related requirements. Reassignment is available only to employees, not to applicants, and the IHS is not required to create new positions or move employees from their job to create a vacancy.

B. Vacant Positions. In considering whether there are positions available for reassignment, the supervisor will work with both the Director, HR, and the individual requesting the accommodation to identify:

(1) all vacant positions within the IHS for which the employee may be qualified, with or without RA, and

(2) all positions which the Director, HR has reason to believe will become vacant over the next 60 workdays and for which the employee may be qualified. The IHS will first focus on positions that are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, the IHS will consider vacant lower-level positions for which the individual is qualified.

C. Reassignment Outside of Employee's Commuting Area. Reassignment may be made to vacant positions outside of the employee's commuting area, if the employee is willing to relocate.

D. Indian Preference Considerations. Every effort must be made to comply with the provisions of Indian preference laws and policies when considering requests for RA that involve reassignment (Part 7, Chapter 3, Section 4C(20) "Indian Preference," IHM).

17. GRANTING A REASONABLE ACCOMMODATION REQUEST.

As soon as the decisionmaker determines that a request for RA will be provided, that decision should be immediately communicated, in writing, to the individual. If the accommodation cannot be provided immediately, the decisionmaker must inform the individual of the projected timeframe for providing the accommodation. This notice should be in writing.

18. DENIAL OF REASONABLE ACCOMMODATION REQUEST.

A. Explanation of Decision. As soon as the supervisor determines that a request for RA will be denied, he/she must complete the EEOC Form, "Denial of Reasonable Accommodation Request" (Circular Exhibit 2004-06-C), and give it to the individual who requested the accommodation. The explanation for the denial will be written in plain language and clearly state the specific reason(s) for the denial. When the request for a specific accommodation has been denied but another accommodation is offered that was not agreed to during the interactive process, the denial notice will explain both the specific reasons for the denial of the requested accommodation and the reasons that the decisionmaker believes the chosen accommodation will be effective.

B. Reasons for Denial of a Request. Reasons for the denial of a request for RA may include any of the following (keeping in mind that the actual notice to the individual must include specific reasons for the denial, e.g., why the accommodation would not be effective or why it would result in undue hardship):

(1) The requested accommodation would not be effective.

(2) Providing the requested accommodation would result in undue hardship on the IHS. Before reaching the "denial" determination, the supervisor must have explored whether other effective accommodations exist that can be provided and would not impose undue hardship. A determination of undue hardship means the IHS finds that a specific accommodation would result in a significant difficulty or expense, or would fundamentally alter

the nature of the IHS's operations. When evaluating budgetary or administrative concerns to determine if undue hardship exists, the IHS will follow the standards enunciated by the EEOC.

(3) Medical documentation is inadequate to establish that the individual has a disability and/or needs RA.

(4) The requested accommodation would require the removal of an essential function.

(5) The requested accommodation would require the lowering of a performance or production standard.

C. Reconsideration Request. Employees or applicants with disabilities can request prompt reconsideration of a denial of RA. If an individual wishes reconsideration, he/she should first ask the decisionmaker's supervisor to reconsider the decision. The individual may present additional information in support of his/her request within 5 workdays. The decisionmaker's supervisor will respond to the request for reconsideration within 5 workdays.

The decision to deny a request will be provided to the individual in writing and identify the reason(s) for the denial. The decisionmaker's supervisor will render a final decision within 5 workdays of the reconsideration request, once the request is elevated from the immediate supervisor.

D. Appeal Rights. The written notice of denial will also inform the individual that he/she has the right to file an EEO complaint and may have the right to pursue Merit Systems Protection Board (MSPB) and Union grievance procedures, if applicable. Any person who files a complaint or grievance is protected from retaliation or reprisal. The notice will also include information regarding the employee's right to submit a reconsideration request as outlined in 19C.

19. REPORTING AND FILING PROCEDURES.

A. Confidentiality. Medical information obtained in connection with the RA process must be kept confidential. All medical information, including information about functional limitations and RA needs, that the IHS obtains in connection with a request for RA must be kept in files separate from the individual's personnel file. Any IHS employee who obtains or receives such information is strictly bound by these confidentiality requirements.

B. Records. The Director, HR, will maintain custody of all records obtained or created during the processing of a request for RA, including medical records, and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act and the requirements of 29 CFR 1611 and EEOC Order 150.003 and maintained in the HR office for the duration of the employee's tenure with the IHS.

C. Disclosure. Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements attached to it. The information may be disclosed only as follows:

(1) Supervisors and managers with a need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), but medical information should only be disclosed if strictly necessary.

(2) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

(3) Government officials may be given information necessary to investigate the Agency's compliance.

(4) The information may, in certain circumstances, be disclosed to workers' compensation offices or insurance carriers.

D. Reporting. All requests for RA(s) and the provision of the accommodation(s) will be reported by the Area EEO/HR office on a quarterly basis to the IHS Headquarters EEO/CR office using the "Reasonable Accommodation Information Reporting Form." (See Circular Exhibit 2004-06-D.) This form is used for tracking purposes only. The Office of the Secretary, HHS, requests aggregate information on an annual basis, usually at the end of the FY. No names are included in the annual report. These records will be maintained in the IHS Headquarters EEO/CR Office for at least 3 years.

20. RELATION OF PROCEDURES TO STATUTORY AND COLLECTIVE BARGAINING PROTECTIONS.

A. Additional Protection. This circular is in addition to statutory and collective bargaining protection for persons with disabilities and the remedies they provide for the denial of requests for RA. Requirements governing the initiation of statutory and collective bargaining claims, including timeframes for filing such claims, remain unchanged.

B. Statutory or Collective Bargaining Remedies. An individual who chooses to pursue statutory or collective bargaining remedies for the denial of RA must do the following:

(1) For an EEO Complaint. Contact an EEO counselor in the EEO office within 45 calendar days from the date of receipt of the written notice of denial.

(2) For a Collective Bargaining Claim. File a written grievance in accordance with the provisions of the Collective Bargaining Agreement.

(3) For an MSPB Appeal. Initiate an appeal to the MSPB within 30 days of an appealable adverse action as defined in 5 CFR 1201.3.

(4) Alternative Dispute Resolution. The Alternative Dispute Resolution (ADR) process may also be invoked anytime during the 20 workdays mentioned in Section 7G, but this does not necessarily stop the timeframes. Therefore, the immediate supervisor must continue to process the individual's request for RA. Note: Employees also have the option of skipping the ADR process and initiate an informal complaint.

21. SUPERSEDURE. None.

22. EFFECTIVE DATE. This circular is effective upon the signature of the Director, IHS.

Charles W. Grim, DDS

Charles W. Grim, ~~D.D.S.~~, M.H.S.A.
Assistant Surgeon General
Director

SOURCES OF INFORMATION ON REASONABLE ACCOMMODATION

U.S. Equal Employment Opportunity Commission

Telephone: 1-800-669-3362 (Voice)
1-800-800-3302 (TTY)

The Equal Employment Opportunity Commission (EEOC) Publication Center has many no-cost documents on the Title I employment provisions of the Americans with Disabilities Act (ADA) of 1990, including both the statute, 42 United States Code (U.S.C.) § 12101 et seq. (1994), and the regulations, 29 Code of Federal Regulations (CFR) § 1630 (1997). In addition, the EEOC has published a great deal of basic information about reasonable accommodation (RA) and undue hardship. The two main sources of interpretive information are: (1) the Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 CFR pt. 1630 app. §§ 1630.2(o), (p), 1630.9 (1997), and (2) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act III, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The Manual includes a 200-page Resource Directory, including Federal and State agencies and disability organizations that can provide assistance in identifying and locating RAs.

The EEOC also has discussed issues involving RA in the following guidance and documents: (1) Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995); (2) Enforcement Guidance: Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996); (3) Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997); (4) Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 405:7371, 7374-76 (1996); and (5) Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act at 20, 22, 23, 24-5, 8 FEP Manual (BNA) 405:7701, 7711, 7712-14, 7715-16 (2000).

All of the above-listed documents, with the exception of the ADA Technical Assistance Manual and Resource Directory, are also available through the Internet at http://www.eeoc.gov.

SOURCES OF INFORMATION ON REASONABLE ACCOMMODATION

Job Accommodation Network (JAN)
1-800-232-9675 (Voice/TTY)
http://janweb.icdi.wvu.edu/

A service of the Department of Labor's Office of Disability Employment Policy, the JAN can provide information, free-of-charge, about many types of RA.

ADA Disability and Business Technical Assistance Centers (DBTAC)
1-800-949-4232 (Voice/TTY)

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

Registry of Interpreters for the Deaf
(301) 608-0050 (Voice/TTY)

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

Rehabilitation Engineering and Assistive Technology Society of North America (RESNA), Technical Assistance (TA) Project
(703) 524-6686 (Voice)
(703) 524-6639 (TTY)
http://www.resna.org

The RESNA can refer individuals to projects in all 50 States and the 6 territories offering TA on technology-related services for individuals with disabilities. Services may include:

1. information and referral centers to help determine what devices may assist a person with a disability (including access to large data bases containing information on thousands of commercially available assistive technology products),

2. centers where individuals can try out devices and equipment,

3. assistance in obtaining funding for and repairing devices, and

4. equipment exchange and recycling programs.

SOURCES OF INFORMATION ON REASONABLE ACCOMMODATION

United States Department of Agriculture (USDA) TARGET Center
1400 Independence Ave.
Room 1006-S
Washington DC 20250-9876
202) 720-2600 (Voice/TTY)
(202) 720-2681 (FAX)

The USDA TARGET Center has a wide variety of assistive devices available for Federal employees to examine and test.

Rehabilitation Services Agencies

Rehabilitation Services Agencies are State agencies that provide support for the employment, economic self-sufficiency, and independence of individuals with disabilities. Local phone books should list them under State services. Sometimes they are listed by Vocational Rehabilitation Offices.

Volunteers for the Visually Handicapped (VVH)
Judy Rasmussen
8720 Georgia Avenue, Suite 210
Silver Spring, MD 20910
(301) 589-0894

E-mail: judyras@tidalwave.net

Some people who have minimal vision use Braille. This organization can convert documents to Braille. After arranging for payment, documents can be sent to VVH as an e-mail attachment, and the Braille copy will be mailed to the Agency.

National Captioning Institute
1900 Gallows Road, Suite 3000
Vienna, VA 22182
703-917-7600

Federal law requires that all videos include captions, preferably open captions. The National Captioning Institute can add captions to videos.

CONFIRMATION OF REQUEST FOR REASONABLE ACCOMMODATION

1. APPLICANT OR EMPLOYEE NAME: _____

   Today's Date: _____

   Date of Request: _____

   Telephone No.: _____

   Employee's Office: _____

2. ACCOMMODATION REQUESTED.

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

3. REASON FOR REQUEST.

   If the accommodation is time sensitive, please explain:

   Return the completed form to your Area Equal Employment Opportunity (EEO) office.

4. REASONABLE ACCOMMODATION ASSIGNED NUMBER. _____
   (EEO Office will assign number)

   Date Form Received: _____

DENIAL OF REASONABLE ACCOMMODATION REQUEST

Reasonable Accommodation (RA) Number _____

(Must complete numbers 1-4; complete number 5, if applicable)

1. Name of Individual requesting RA:_____

2. Type(s) of reasonable accommodation requested:_____

3. Request for reasonable accommodation denied because: (may check more than one box)

   - ☐ Accommodation Ineffective
   - ☐ Accommodation Would Cause Undue Hardship to _____
   - ☐ Medical Documentation Inadequate
   - ☐ Accommodation Would Require Removal of an Essential Function
   - ☐ Accommodation Would Require Lowering of Performance or Production Standard
   - ☐ Other (Please identify)

4. Detailed reason(s) for the denial of reasonable accommodation (You must be specific, e.g., why accommodation is ineffective or causes undue hardship):

5. If the individual proposed one type of reasonable accommodation, which is being denied, but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why you believe the chosen accommodation would be effective.

6. If an individual wishes to request reconsideration of this decision, he/she may take the following steps:

   A. First, ask the decisionmaker to reconsider his/her denial. Additional information may be presented to support this request.

   B. If the decision maker does not reverse the denial, and

   C. the decisionmaker was the individual's supervisor, the individual can ask the Area/Office Director, or designee, to reconsider the denial.

7. If an individual wishes to file an EEO complaint or pursue Merit System Protection Board (MSPB) and Union grievance procedures, he/she must take the following steps:

   A. For an EEO complaint pursuant to 29 Code of Federal Regulations (CFR) § 1614, contact an EEO counselor in the Office of Equal Opportunity within 45 days from the date of this notice of denial of reasonable accommodation;

   B. Commissioned corps officers will contact an EEO counselor within 15 days from the date of this notice of denial of reasonable accommodation; or

   C. For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement; or

   D. Initiate an appeal to the MSPB within 30 days of an appealable adverse action as defined in 5 CFR § 1201.3.

_____ _____
Name of Deciding Official Signature of Deciding Official

Date reasonable accommodation denied:_____

REASONABLE ACCOMMODATION INFORMATION REPORTING FORM

Name of Individual Requesting Reasonable Accommodation:_____

Office of Requesting Individual:_____

Reasonable Accommodation (RA) Number: _____

1. Reasonable accommodation: (Check one)

   _____ Approved

   _____ Denied (If denied, attach copy of the written denial letter/memorandum.)

2. Date reasonable accommodation requested:

   Who received request:_____

3. Date reasonable accommodation request referred to decisionmaker (e.g., supervisor, office director, disability program manager or designee, personnel management specialist): _____

   Name of decisionmaker:_____

4. Date reasonable accommodation approved or denied: _____

5. Date reasonable accommodation provided (if different from date approved): _____

6. If time frames outlined in the Reasonable Accommodation Procedures were not met, please explain why.

7. Job held or desired by individual requesting reasonable accommodation (including occupational series, grade level, and office):

8. Reasonable accommodation needed for: (check one)

   ☐ Application Process

   ☐ Performing Job Functions or Accessing the Work Environment

   ☐ Accessing a Benefit or Privilege of Employment (e.g., attending a training program)

9. Type(s) of reasonable accommodation requested (e.g., adaptive equipment, staff assistant, removal of architectural barrier):

10. Type(s) of reasonable accommodation provided (if different from what was requested):

11. Was medical information required to process this request? If yes, explain why.

12. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (e.g., Job Accommodation Network, Computer/Electronic Accommodations Program (CAP), disability organization, disability program manager):

13. Comments:

Submitted by:_____ Phone:_____

Date form submitted to EEO Office: _____

Attach copies of all documents obtained or developed in processing this request.