

INTERNAL REVENUE SERVICE – OFFICE OF CHIEF COUNSEL

REASONABLE
ACCOMMODATION
PROCEDURES & POLICY

REVISED DECEMBER 2024



1. REASON FOR ISSUANCE

The IRS, Office of Chief Counsel (Counsel) Reasonable Accommodation (RA) Procedures and Policy provides the guidelines for RA to employees or applicants with disabilities in compliance with all applicable laws and regulations. This issuance establishes the Counsel procedures for processing requests for RA as established by CRD-009, dated (TBD), implement Executive Order 13164 by establishing requirements for processing requests for RA and, where appropriate, for providing RA to employees and applicants with disabilities. These procedures provide further directions for compliance with the Department of Treasury and Executive Order 13164.

2. CANCELLATION

RA Procedures Interim Policy dated April 2024.

3. PURPOSE AND SCOPE

To establish Counsel procedures and policy for processing requests for RA and, where appropriate, for providing voluntary job modification or RA to employees and applicants with disabilities. The following policy implements the requirements set forth under Section 501 of the of the Rehabilitation Act of 1973 (29 C.F.R § 1614.203(d)(3)) and Executive Order 13164 by establishing requirements for processing requests for reasonable accommodations.

The procedures and policy contained herein applies to all Counsel facilities and offices, and to all employees and applicants for employment with Counsel. These policies and procedures supplement the Equal Employment Opportunity Commission (EEOC) Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (October 17, 2002), and EEOC Policy Guidance on Executive Order 13164, Establishing Procedures for Providing Reasonable Accommodation for Individuals with Disabilities. Both documents are available on EEOC's internet site at www.eeoc.gov.

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 Americans with Disabilities Act (ADA) defines a person with a disability as someone with a physical or mental impairment that substantially limits a major life activity (such as walking, talking, seeing, hearing, learning, or operation of a major bodily function, such as brain, musculoskeletal, respiratory, circulatory, or endocrine function), has a history of a disability, or is subject to an adverse employment action because of a physical or mental impairment the individual actually has or is perceived to have. The expanded definition of disability is to be interpreted broadly and does not require an extensive analysis.

4. POLICY

Counsel is committed to providing RA to qualified employees and applicants for employment to ensure that individuals with disabilities enjoy full access to equal employment opportunities. Counsel shall provide RA for the known physical or mental limitations of otherwise qualified employees and applicants with disabilities and those with known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions unless a particular accommodation would impose an undue hardship on the operation of its programs. Counsel strives to be an employer of choice that values its employees and applicants. To ensure Counsel maintains an effective and efficient workforce, managers are encouraged to provide voluntary modifications, outside of the reasonable accommodation process, when the request is easy and inexpensive.

5. AUTHORITIES

- a. 29 C.F.R. §1614.203, “Rehabilitation Act.”
- b. 42 U.S.C. §12101, “Americans with Disabilities Act (ADA) of 1990.”
- c. Public Law 110-325, Sept. 25, 2008, “ADA Amendments Act of 2008 (ADAAA).”
- d. 29 C.F.R. §1630, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, as amended.”
- e. 29 C.F.R. § 1636, “Appendix A to Part 1636 - Interpretative Guidance on the Pregnant Workers Fairness Act” (Interpretative Guidance).

6. REFERENCES

- a. The Rehabilitation Act of 1973 (29 U.S.C. 701), as amended, requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship.
- b. Executive Order 13164, Requiring Federal Agencies to Establish Procedures

to Facilitate the Provision of Reasonable Accommodation (July 26, 2000), requires that Federal agencies establish effective written procedures for processing requests for reasonable accommodation.

- c. Equal Employment Opportunity Commission Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, No. 915-003 (October 20, 2000), explains EO 13164 in detail.
- d. Equal Employment Opportunity Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (October 17, 2002), clarifies the rights and responsibilities of employers and individuals with disabilities regarding reasonable accommodation and undue hardship.
- e. Americans with Disabilities Act Amendments Act (ADAAA) of 2008, Public Law 110- 325 ADAAA, effective 2009 focuses on the discrimination at issue instead of the individual's disability. Equal Employment Opportunity Commission issued its final regulations on the ADAAA on March 25, 2011, which became effective on May 24, 2011.
- f. EEOC Final Rule: Affirmative Action for Individuals with Disabilities in Federal Employment.
- g. Appendix A to 9 C.F.R. § 1636, Part 1636 - Interpretative Guidance on the Pregnant Workers Fairness Act” (Interpretative Guidance).

7. DEFINITIONS

Counsel. IRS, Office of Chief Counsel.

Department. The Department of the Treasury, including all its bureaus and offices.

Deciding Official. An individual who has authority to determine whether a requested accommodation will be provided. The Deciding Official is generally the employee’s first-level supervisor or any supervisor in the employee’s chain of command or servicing Human Resources (HR) Specialist for applicants.

Disability. A physical or mental impairment that substantially limits one or more of the major life activities; a record (or past history) of such an impairment; or being regarded as having an actual or perceived physical or mental impairment as defined in § 501 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), the Americans with Disabilities Act Amendments Act (ADAAA) and 29 CFR Part 1630.

Dispute Resolution Process. Any voluntary mechanism through which an individual can request reconsideration of denial of reasonable accommodation, regardless of whether the individual has started the EEO complaint process.

Essential Functions. The essential functions of a job are those functions that define the job. In other words, the job exists to perform those tasks. A job function may be considered "essential" if, among other things, the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; the function is specialized and the individual is hired based on expertise or ability to perform a particular function; or the position requires the employee or applicant to be present at the physical workplace location to perform such function. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description, which may include marginal or infrequently performed tasks that could be eliminated without altering the fundamental nature of the job. Type of evidence to be considered when making a determination concerning essential functions of a position may include, but is not limited to, the employer's judgment as to which functions are essential, written job descriptions, the amount of time spent performing the function, and consequences of not requiring the incumbent to perform the function.

Extenuating Circumstances. Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation (e.g., identified software is not compatible with existing equipment).

Genetic Information. As defined by the Genetic Information Nondiscrimination Act (GINA) of 2008, includes information concerning the manifestation of disease/disorder in family members ("family medical history"), information about an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully by held an individual or family member receiving assistive reproductive services.

Individual with a Disability. For the purpose of providing a reasonable accommodation, an "individual with a disability" is defined as a person who has a physical or mental impairment that substantially limits one or more of that person's major life activities or who has a record of such an impairment.

Interactive Process. The process by which the individual requesting an accommodation and the Deciding Official discuss the request for accommodation, determine whether an accommodation will be provided, and examine potential alternative accommodations. In other words, in addressing reasonable accommodation, the parties should engage in an informal and flexible "interactive process" to identify the precise limitations of the individual and what accommodations could overcome those limitations while allowing the individual to perform the essential functions of the position of record.

Limitation. For the purposes of providing reasonable accommodations to a qualified employee or applicant, it includes known limitations related to, affected by, or arising from pregnancy, childbirth, or related medical conditions, unless Counsel can demonstrate that a particular accommodation would impose an undue hardship on the operation of its programs. The terms “related to, affected by, or arising from” must be interpreted as expansive terms that include all types of limitations arising or originating from pregnancy and childbirth, including those medical conditions that are minor and those that are needed to maintain the applicant’s or employee’s health or the health of the pregnancy.

Major Life Activities. Basic activities that the average person in the general population can perform with little or no difficulty, i.e., caring for oneself, performing manual tasks, walking, seeing, standing, hearing, speaking, breathing, reading, eating, sleeping, communicating, bending, lifting, concentrating, learning, working, and the operation of major bodily functions.

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

Reasonable Accommodation. An adjustment or alteration that enables an otherwise qualified individual with a substantially limiting impairment or a record of such an impairment to apply for a job, perform job duties, or enjoy benefits and privileges of employment. There are three categories of reasonable accommodations:

- a. accommodations that are required to ensure equal opportunity in the application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille);
- b. accommodations that enable employees with disabilities to perform the essential functions of the position held or desired (such as providing sign language interpreters); and
- c. accommodations that enable employees with disabilities to enjoy equal benefits and privileges of employment as enjoyed by employees without disabilities (such as removing physical barriers in an organization's cafeteria).

Reassignment. RA of last resort, that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to funded vacant positions and for employees who are qualified to fill the vacant position. If the employee is qualified for the position, the employee can be reassigned to the job and will not have to compete. Suggesting, encouraging, informing or directing an employee to compete for vacant positions within the Department does not satisfy Counsel’s obligation to reassign as accommodation. Counsel is required to exhaust all other reasonable accommodation options prior to considering reassignment as an accommodation of last resort.

Receiving Officials. Counsel personnel designated to officially receive a request for RA from an employee or applicant (or an individual acting on their behalf), who determines who will handle the request (the Deciding Official) and monitor the request until it is closed.

Requester. A qualified employee or applicant with a disability, or an individual acting on his/her behalf, who requests RA.

Undue Hardship. An action requiring significant difficulty or expense when considered in light of factors such as the Business Unit's size, financial resources, and the nature and structure of the position. Determination of undue hardship is always made on a case-by-case basis, considering factors such as the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the Business Unit. In determining whether an accommodation is too costly, the financial resources of the Department should be considered not just those of the employee's Business Unit.

Voluntary Modification. An adjustment or alteration granted outside of the RA process without requiring the individual to establish existence of a disability. Such a modification is particularly appropriate where the modification is easy and inexpensive (e.g., a request for an ergonomic computer mouse or a screen glare protector). Provisions of a voluntary modification does not mean that Counsel considers the individual to be an individual with a disability as defined herein or regarded as such.

NOTE: Nothing in this policy prohibits providing accommodations beyond those required by the Americans with Disabilities Act of 1990 or the Rehabilitation Act of 1973 as amended by the Americans with Disabilities Act Amendments Act of 2008.

8. REQUESTING A REASONABLE ACCOMMODATION REQUEST

A. The Request

1. The RA process begins as soon as the request for accommodation is made either orally or in writing. (A sample request form is provided in Appendix A.) In accordance with 29 CFR 1614, an individual does not need to have an accommodation in mind before making the request. The request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a RA whenever they choose, even if they have not previously disclosed the existence of a disability. The request does not necessarily mean the employer is required to provide the accommodation.
2. The individual's request must be considered when an employee, or someone on their behalf, makes a request for any change in working conditions to their immediate supervisor, a supervisor or manager in their immediate chain of command, or any Receiving Official designated to oversee the RA process. When an applicant makes a request, it will be considered if made to the RAC or any other individual designated by Counsel.

3. A family member, friend, health care professional, or other representative, may request a RA on behalf of an employee or applicant with a disability. The request shall be made to one of the persons listed as “Receiving Official” defined above. If possible, the employee or applicant with a disability should be contacted to confirm the request for RA. The employee or applicant with a disability may decline to make a request or refuse to accept an accommodation.

B. Written Requests for Record Keeping Purposes

1. Requests may be written oral. While a written request is not required, it is the preferred method of documenting a RA request. To ensure accurate records, the receiving official should confirm in writing the receipt of a request for RA, documenting when the request was received, and the nature of the accommodation requested. (A sample is provided at Appendix A.)
2. A written confirmation request form is not required each time an individual needs a RA on a recurring basis (e.g., the assistance of sign language interpreters or readers). The written confirmation form is required only for the first request although appropriate notice may be required each time a recurring accommodation is needed.

C. The Interactive Process

1. Communication is a priority throughout the entire process. Counsel officials involved in the provision of RA should take a proactive approach in searching for and considering effective accommodation options, including consulting with appropriate resources for assistance. The employee or applicant requesting the accommodation should also participate, to the maximum extent possible, in helping to identify an effective accommodation. Personnel involved in the interactive process should maintain a chronological record of their activities.
2. On-going communication is particularly important where the specific limitation, problem, or barrier is unclear, an effective accommodation is not obvious, or when there are several RA that are effective at accommodating the individual. Extensive discussions are not necessary when the disability, the need for accommodation, and type of accommodation that should be provided are clear. Even so, the Deciding Official and requester should talk to each other to make sure that there is a full exchange of relevant information.

D. Determining Who Will Handle the Request

Counsel must provide contact information for the individual or program office (e.g., Reasonable Accommodation Coordinator (RAC) and the Human Resources Office) which requesters may contact regarding the status of their request for RA and/or their final decision.

1. Receiving Officials. Typically, the Receiving Official is the employee's immediate supervisor, another supervisor or manager in the employee's immediate chain of command, or the RAC. For an applicant, any Counsel employee with whom the applicant has contact during the application process, or any other individual designated by Counsel, may be the Receiving Official.
2. Deciding Official. An official delegated principal responsibility who has authority for identifying possible accommodations and determining whether an accommodation will be provided. The Deciding Official may be different depending on whether the request is initiated by an employee or an applicant, or type of accommodation being requested. For example, the Deciding Official could be as follows:
 - a. Human Resources Specialist responsible for the recruitment and/or selection process if the request for accommodation is from an applicant;
 - b. RAC if the accommodation requested is for adaptive equipment, a reader or sign language interpreter, removal of an architectural barrier, accessible parking, or materials in alternative formats;
 - c. the head of office or their designee where the accommodation requested involves personnel actions; or
 - d. the immediate supervisor or the head of office if the accommodation requested is within the scope of their authority, such as granting an alternate work schedule, purchasing an ergonomic keyboard, or granting extended breaks.

Counsel shall ensure procedures are in place to provide back-up coverage to continue receiving, processing, and providing reasonable accommodations when the Receiving and Deciding Officials are unavailable. The time frames discussed in Section H below may not be suspended or extended because of the unavailability of the Receiving or Deciding Official.

3. The RAC shall be available to provide any assistance required to make an accommodation decision, including providing guidance on any requests for funding, obtain necessary medical documentation required to make an accommodation decision, and provide assistance to employees, human resources officials and Deciding Officials in processing requests for RA.

4. Counsel must consider money available through a centralized fund it has created to pay for many forms of reasonable accommodation. There is a purchase responsibility listing between Facilities Management & Security Services (FMSS) and Business Units. RA consultation and property acquisition for ergonomic equipment, Information Technology (IT) equipment and tools, furniture, adjustments & repair, and movement support, are requested by the RAC by using IRWorks. Requests in IRWorks are received by FMSS. Counsel's RA program has the ability to access the Internal Revenue Service's Information Resource's Accessibility Program (IRAP) to pay for certain equipment related to Section 508 compliance and assistive technology tools for employees. For additional implementation questions continue to work through your RAC.

E. Reassignment and Other Position Changes as an Accommodation

1. Reassignment is an accommodation of last resort. Reassignment will only be considered if a determination is made that no other RA 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. Counsel is not obligated to create a position for the purpose of reassignment.

Note: The inability to work for a particular supervisor is not a disability that requires accommodation.

2. Counsel determines that an employee cannot perform the essential functions of the position of record with or without a RA, the appropriate Counsel officials¹ must review vacancies for which the employee is qualified to determine if there is another position at the same or lower grade which the employee can perform. Counsel may establish the time periods during which they will review vacancies but must do so for a minimum of **30 business days** before expanding to a Treasury-wide search with other bureaus.

Note: Suggesting, encouraging, informing, or directing an employee to compete for vacant positions within the bureau does not satisfy Counsel's obligation to reassign an employee as an accommodation of last resort.

3. Since it may take a minimum of 30 business days to determine whether an appropriate vacant position exists, the employer and employee should discuss the employee's options during that job search period (e.g., use of accrued leave, use of unpaid leave, a temporary detail to a position with less/without physical requirements, or a temporary detail to unclassified duties).

¹ Counsel's Human Resources Office is responsible for reviewing qualifications, determining essential functions of a position, and making the final decision on whether an employee has the requisite qualifications for a position.

4. In considering whether there are positions available for reassignment, Counsel should identify:
 - a. all funded vacant positions within Counsel for which the employee may be qualified, with or without reasonable accommodation; and
 - b. all funded positions which the Counsel LER Division has reason to believe will become vacant over the next **30 business days** and for which the employee may be qualified.
 - c. If applicable, Counsel asks the employee to update their respective resume and identify what grade(s) and locations the employee will accept. Counsel will first focus on positions which are equivalent to the employee's current job in terms of grade, pay and other relevant factors. If there is no vacant equivalent position, Counsel should complete Section E.4 of this process. If the employing office identifies a vacant position at a lower grade level, the HR Division must hold that position until Counsel's RAC conducts a search in other Treasury bureaus for a position at the employee's current grade level.

Note: Counsel is not required to consider positions at a higher grade or positions with known promotional potential greater than the employee's current position. However, the employee is entitled to apply for such a position under any competitive process.

5. As required by law, a search must be conducted Treasury-wide; however, before a request is sent to the Department's RAC for assistance in a Treasury-wide search, Counsel's RAC must certify in writing:
 - a. that a search for all funded vacant positions for which the employee is qualified, with or without a RA, was conducted for a period of 30 business days;
 - b. that no equivalent or lower grade positions were identified or if a lower graded position was identified that position will be held until a Treasury-wide search is conducted for positions closer to the employee's grade level; and
 - c. that there are no equivalent vacant positions that HR has reason to believe will become vacant over the next 30 business days for which the employee may be qualified.

- d. This information should be forwarded to the Department's Disability Program Manager, who will coordinate a search for a position for an additional **30 business days**. If there is no vacant equivalent position and the bureau is not holding a position at a lower grade level (see E.3, of this process above). If Counsel is holding a position at a lower grade level, the Department will only search for positions at a higher grade level not to exceed the employee's current grade level (e.g., if the employee is a GS-12 and Counsel is holding a GS-7 position, the Department will only search for positions at the GS-8 thru GS-12 level).

NOTE: To assist Counsel in conducting a Department-wide search, the employee is provided with an opportunity to submit an updated resume or a brief description of their current skills and accomplishments. Failure to provide such information could result in Counsel's inability to identify positions for which they may be qualified.

6. The RAC should maintain a record of the search conducted.
7. Reassignment may be made to a vacant position outside of the employee's commuting area if the employee is willing to relocate. As with other transfers not required by management, Counsel is not required to pay for the employee's relocation costs.
8. Once a reassignment offer has been made, the employee has up to **14 business days** to accept or decline the offer.
9. If no vacant positions for which the employee is qualified are located, Counsel has **30 business days** from the date of the Department's notification to issue the employee a final decision letter explaining why reassignment as a reasonable accommodation could not be provided.
10. In accordance with 29 CFR 1614.203 (d)(3)(i)(B), reassignment to a vacant position for which an employee is qualified and not just permission to complete for such a position, is a reasonable accommodation.

F. Requests for Medical Information

1. In some cases, the disability and need for accommodation will be obvious or otherwise already known to the Deciding Official. In these cases, further medical information will not be sought. However, when a disability and/or need for RA is not obvious or otherwise already known to the Deciding Official, Counsel may require that the individual provide reasonable medical documentation about the disability and his/her functional limitations.

NOTE: Any request for medical information must comply with the Genetic Information Nondiscrimination Act (GINA) of 2008.

<http://www.eeoc.gov/laws/types/genetic.cfm>

2. If the Deciding Official believes medical information is necessary to evaluate a request for a RA, the Deciding Official should contact the RAC, who will obtain the necessary medical documentation to make an accommodation decision.
3. If a determination is made to seek medical information, information will be requested sufficient to substantiate the individual has a disability as defined by laws and regulations. **Documentation unrelated to the claimed disability should not be requested.** Requests for medical information will follow the requirements set forth in EEOC's Enforcement Guidance: "*Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act,*" available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>.
4. The RAC or their designee will seek information or documentation about the disability and/or functional limitations from the individual, and/or ask the individual to obtain such information from an appropriate health care professional, such as a doctor, social worker, or rehabilitation counselor. (A sample form is provided in Appendix C.) To get the most helpful information, all requests for information should describe the nature of the job, the essential functions the individual is expected to perform, and attach any other relevant information such as the position description.
5. Once medical documentation is received, the RAC and/or an appropriate Counsel official will evaluate the documentation. If the information provided by the health care professional (or the information volunteered by the individual requesting the accommodation) is insufficient to enable Counsel to determine whether an accommodation is appropriate, Counsel may ask for further information. The RAC should explain to the individual seeking the accommodation, in specific terms, why the information provided is insufficient, what additional information is needed, and the reason the information is necessary for a determination of the reasonable accommodation request. The individual may then ask the health care provider or other appropriate professional to provide the missing information.
6. Counsel officials generally should not contact a health care professional directly. Any contact with a health care professional should be discussed in advance with General Legal Services and the RAC as appropriate.
7. Alternatively, the individual requesting the accommodation may agree to sign a limited release, giving the RAC or designee permission to submit a list of specific questions to the individual's health care professional or contact the individual's doctor.
8. Medical information may also be disclosed to Counsel EEO officials to maintain records (29 C.F.R. § 1614.203(d)(3)(i)(L)).

9. In some cases, the individual requesting the accommodation will supply medical information directly to the Deciding Official without being asked. In these cases, the Deciding Official will adhere to Part f, para. (2) of this process, and forward documents securely to the RAC.
10. If the individual requesting accommodation does not provide appropriate documentation or does not cooperate in Counsel's efforts to obtain such documentation Counsel may deny the requested accommodation.

G. Confidentiality and Disclosure

1. All medical information, including information about functional limitations and RA needs, obtained in connection with a request for RA, **must be kept confidential**. The information shall be kept in files separate from the individual's official personnel file. In addition, employees who obtain or receive such information are strictly bound by these confidentiality requirements. The information may be disclosed only to the following individuals:
 2. Deciding Officials, supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and the necessary accommodation(s), **but medical information should only be disclosed if absolutely necessary**.
 3. First aid and safety personnel, when appropriate, if the disability might require emergency treatment or special arrangements in emergency situations such as building evacuations.
 4. Government officials when the information is necessary to investigate compliance with the Rehabilitation Act of 1973.
 5. In certain circumstances, to workers' compensation offices or insurance carriers.
 6. Treasury or Counsel officials in connection with the provision of legal advice to Counsel officials.
 7. Where Counsel determines that it requires a recommendation from a medical health professional, a Designated Medical Information Officer (DMIO), Counsel will inform the employee that they have the option to sign a medical release form to provide that information to the DMIO. The DMIO is authorized to share only the relevant facts with the appropriate manager. Counsel maintains the right to have medical information reviewed by a medical expert of the Counsel's choosing at Counsel's expense (29 C.F.R. § 1614.203(d)(3)(i)(K)).
 8. Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that apply.

H. Granting Reasonable Accommodations and Timeframes for Processing Requests

1. **Granting a Reasonable Accommodation Request.** As soon as the Deciding Official determines a RA will be provided, the decision should be immediately communicated to the individual by the Deciding Official. (A sample request form is provided in Appendix B.) If the accommodation cannot be provided immediately, the Deciding Official must inform the individual of the projected timeframe for providing the accommodation. A Deciding Official or supervisor may take temporary or permanent measures, such as providing assistive technology or altering the physical layout of an office, to facilitate the work of an employee. Taking such measures does not, standing alone mean, and may not be used to imply, that Counsel has determined that the individual is an individual with a disability or that any RA is needed.
2. **Timeframes for Processing Request.** The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting documentation. As a general rule, Counsel must process requests for RA as expeditiously as possible. Failure to provide an accommodation promptly, without good cause, even when within the maximum amount of time generally permitted, can result in a violation of the Rehabilitation Act. At a minimum, requests shall be processed as follows:
 - a) Requests Not Involving Extenuating Circumstances
 - (1) If the request does not require obtaining supporting medical information, the request shall be processed and the accommodation, if granted, provided as soon as possible but not more than **20 business days** from the date the request was initially made.
 - a. Examples of accommodations that can easily be provided within the 20-day time frame include:
 - i. An employee with HIV infection must take medication on a strict schedule. The medication causes extreme nausea about one hour after ingestion, and the employee requests two 20-minute breaks a day when the nausea occurs.
 - ii. An employee who takes anti-depressants that make it hard to get up in time to get to the office at 9:00 a.m., requests to be allowed to start work at 10:00 a.m. and still put in an 8-hour day.
 - iii. A supervisor distributes detailed agendas at the beginning of each staff meeting. An employee with a learning disability asks that the agenda be distributed ahead of time because the disability makes reading difficult and he/she needs more time to prepare.

- (2) If the request requires obtaining supporting medical information to determine whether the requesting individual has a disability and/or to identify the following will apply:
 - a. The Receiving Official, through the RAC, will request medical documentation as soon as possible after receiving the request for accommodation, but before the expiration of the 20-day period. Thereafter, the 20-day period timeframe is frozen or held in abeyance until sufficient medical documentation is received. Counsel recognizes the need for documentation may not become apparent until after the interactive process has begun.
 - b. Counsel will not be expected to adhere to its usual timelines if an individual's health professional fails to provide needed documentation in a timely manner.

b) Requests Involving Extenuating Circumstances

- (1) When extenuating circumstances are present, the time for processing a request for RA and providing the accommodation will be extended as deemed necessary. However, such extensions should be rare. Counsel officials are expected to act as quickly as reasonably possible in processing requests and providing accommodations. The following are examples of extenuating circumstances:
 - a. The purchase of equipment may take longer than **20 business days** because of requirements under the Federal Acquisition Regulations.
 - b. Equipment is backordered; the vendor typically used by the bureau for goods or services has unexpectedly gone out of business; or the vendor cannot promptly supply the needed goods or services, and another vendor is not immediately available.
 - c. The employee with a disability needs to try working with equipment on a trial basis to ensure it is effective before the bureau buys the equipment.
 - d. New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.
- (2) Where extenuating circumstances are present, the Deciding Official must notify the individual, in writing, 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.

- (3) If there is a delay in providing an approved accommodation, the Deciding Official must decide 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 Deciding Official may authorize measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an essential function) if:
 - a. they do not unreasonably interfere with the operations of Counsel; and
 - b. the employee is clearly informed that the relief/alternative is being provided only on a temporary basis.

For example, there may be a delay in receiving adaptive equipment for an employee with vision impairment. 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 much of the job as possible until the equipment arrives.

- (4) If a delay is attributable to the need to obtain or evaluate medical documentation and Counsel has not yet determined the individual is entitled to an accommodation, Counsel may also provide an accommodation on a temporary basis. In such a case, the Deciding Official will notify the individual **in writing** that the accommodation is being provided on a temporary basis pending a decision on the accommodation request.
- (5) Deciding Officials who approve such temporary measures are responsible for ensuring they do not take the place of a permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken.

3. Expedited Processing

In certain circumstances, a request for RA requires an expedited review and decision in a timeframe that is shorter than the **20 (twenty business days)** discussed above. Examples include:

- a. An applicant applying 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 an applicant with a disability has an equal opportunity to apply for a job. Therefore, Counsel needs to move as quickly as possible to make a decision and, if appropriate, provide a RA.

- b. An employee attending 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**.

9. DENYING A REASONABLE ACCOMMODATION REQUEST

- A. When a Deciding Official decides to deny a request for RA, they must issue a written decision to the individual who requested the accommodation, with a copy to the RAC. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. Counsel will provide a job applicant or employee who is denied a RA with a written notice at the time of the denial, in an accessible format.
- B. Where the Deciding Official decides to provide an alternate accommodation, the written decision should explain both the reasons why the specified accommodation was not provided and the reasons the Deciding Official believes the alternate accommodation will be effective.
- C. The written decision must **include specific reasons for the denial**. Explanation(s) may include the following:
 - 1. Requestor does not meet the definition of an individual with a disability, as defined in § 501 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), as amended by the Americans with Disability Act Amendments Act (ADAAA) or medical documentation is inadequate to establish the individual has a disability and/or needs a reasonable accommodation.
 - 2. The requested accommodation would not be effective.
 - 3. Providing the RA would result in undue hardship. Before reaching this determination, the Deciding Official must have considered all resources available to the Department as a whole, excluding those designated by statute for a specific purpose that does not include RA, and whether other effective accommodations exist which would not impose undue hardship and therefore could be provided.
 - 4. In determining whether an accommodation poses an undue hardship, the financial resources of the organization or the Department should be considered and not just the resources of the individual's business unit. If, after considering all available Treasury resources, the deciding official determines that an accommodation poses an undue hardship because of cost, then you can conclude with the general expectation that denials based on cost would be limited. Business Unit offices can invoke undue hardship only for impact on operations.
 - 5. See definition of Undue Hardship above.
 - 6. The requested accommodation would require the removal of an essential function.

7. The requested accommodation would require the lowering of a performance or production standard.

D. The written notice of denial must also inform the job applicant or employee that pursuant to 29 CFR 1614.105, the right to file a complaint will be lost unless the job applicant or employee initiates contact with an EEO Counselor within 45 days of the denial, regardless of whether the applicant or employee participant in an informal dispute resolution process. In addition, it must also inform the job applicant or employee have may have rights to pursue Merit Systems Protection Board (MSPB) and/or union grievance procedures. The notice must also explain Counsel's procedures available for Alternate Dispute Resolution (ADR).

10. VOLUNTARY MODIFICATIONS

A. Upon request of an accommodation, a manager or any designated official responsible for identifying effective accommodation options may choose to grant a voluntary modification outside of the RA process. When applicable and when the requested accommodation is easy and/or inexpensive, this option allows managers/designated officials to grant a modification *without first establishing that the individual has a disability*. As the Department strives to be an employer of choice, managers or designated officials are encouraged to provide applicants and employees with a modification that will allow them to either apply for a job or perform job duties and enjoy the benefits and privileges of employment.

B. Examples of voluntary modifications that can easily be provided outside of the RA process include:

1. An applicant requests the vacancy announcement in large print;
2. An employee asks for four breaks a day to test blood sugar levels;
3. An employee requests an ergonomic keyboard; and
4. An employee requests a footrest to elevate the legs to decrease feet swelling.

C. Typically, a voluntary modification will not require supporting medical documentation. However, if medical documentation is necessary for a voluntary modification, the documentation requirement *must be minimal and straightforward in nature*. If the medical information provided necessitates interpretation, a medical opinion and/or a medical release, the request shall be considered and processed as a request for a reasonable accommodation. The same is true when a voluntary modification is not granted, or it is not quick and easy to decide with or without medical documentation. In such cases, the request must be treated and processed as a request for reasonable accommodation.

NOTE: Making a voluntary modification does not mean nor may be used to imply that Counsel has perceived, regarded, or has determined that the individual has a disability or that an accommodation is needed.

11. DISPUTE RESOLUTION

- A. If an individual wishes reconsideration, he/she should first ask the Deciding Official to reconsider the decision within **10 business days** of receiving the written denial to provide RA. The individual may present additional information in support of the RA request. The Deciding Official will respond to the request for reconsideration within **5 business days**. Any request for reconsideration received after **10 business days** of the denial will be treated as a new request for a RA.
- B. If the Deciding Official does not reverse the decision, the individual may appeal the decision within **10 business days** of receiving the Deciding Official's denial of the request for reconsideration. The appeal shall be decided by the next level manager or any other senior official in the Deciding Official's chain of command. A response to the appeal will be issued to the individual within **10 business days**.
- C. Pursuing dispute resolution procedures, including seeking reconsideration from the Deciding Official and filing an appeal, **does not suspend the time limits for initiating claims under any collective bargaining agreement or the EEO complaint process.**

12. INFORMATION TRACKING AND REPORTING

- A. Information Tracking. The RAC will maintain current records related to an individual's request for a RA for the duration of the employee's tenure with Counsel. The Receiving Official or appropriate management official will be provided access to the individual's RA request and be able to track the request until fulfillment.
 - 1. Employees may track their request by contacting the RAC or the assigned Office Manager or Administrative Officer.
 - 2. Applicants may track their request by contacting the RAC at CC.ReasonableAccommodationServices@irscounsel.treas.gov.
- B. Record Keeping. Counsel is responsible for collecting and maintaining the following information with respect to RA requests. The records may be used to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501 and will be made available to the Commission upon the Commission's request to determine compliance.
 - 1. Details about each request for RA including, at a minimum:
 - a. The specific RA requested, if any;

- b. The job (occupational series, grade level, and bureau component) sought by the requesting applicant or held by the requesting employee;
 - c. Whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment;
 - d. Whether the request was granted (which may include an accommodation different from the one requested) or denied;
 - e. The identity of the deciding official;
 - f. If denied, the basis for such denial; and
 - g. The amount of time taken to process the request.
- C. Reporting. Counsel's EEO Officer will annually evaluate and report on the RA program. An effective RA program is part of a model EEO program and must be included in the MD-715 report. The executive summary of Counsel's MD-715 report should include a discussion of the following:
- 1. accessibility of the RA procedures and policy to employees and applicants with or without a disability, e.g., posted on the Internet, Intranet, disseminated in employee handbooks, or available in alternative formats, such as Braille;
 - 2. the number of RA requests approved; of that, the number approved within the timeframes set out in Counsel's procedures, and the number of RA requests denied.

13. STATUTORY AND COLLECTIVE BARGAINING CLAIMS

- A. Executive Order 13164 does not create, modify or limit the rights of applicants or employees under the Rehabilitation Act or any other law. The requirements described in these procedures and policy are in addition to statutory and collective bargaining protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. The requirements governing statutory and collective bargaining claims, including time frames for filing such claims, remain unchanged.
- B. An individual who chooses to pursue other available remedies must comply with the following:
 - 1. **EEO Complaint.** Contact an EEO counselor within **45 days** from the date of receipt of the Deciding Official's written notice of denial;
 - 2. **Collective Bargaining Claim.** File a grievance in accordance with the provisions of the controlling Collective Bargaining Agreement; or

3. **MSPB Appeal.** Initiate an appeal within **30 days** of an appealable adverse action as defined in 5 C.F.R. 1201.3.

14. RESOURCES

- A. Sign Language Interpreters.** Please complete the [Sign Language Interpreter Request Form](#). Click the submit button to send the form to the Office of Equity, Diversity, and Inclusion for processing.
- B. Materials in Accessible Formats.** The Alternative Media Center (AMC) publishes material, including these RA Procedures, in accessible formats for Office of Chief Counsel job applicants and employees with disabilities. This includes Braille, large print, CD-ROM, electronic Braille, tactile graphics, captioning services, etc. Electronically accessible media forums such as Intranet and Internet sites are available for access by customers with disabilities who utilize the AMC products. Currently, the AMC manages the productions, distribution, and storage of materials through in-house and contract facilities.

The following information is required when placing an order:

1. Document name and revision date (Example: F.1040 1/2001)
2. Format preferred (Example: Braille, large print, CD-ROM)
3. Date the order is required to be delivered to the customer
4. Contact name, number and e-mail address, if available

- C. Requests for AMC services and products can be sent to** <http://amc.enterprise.irs.gov/> Services and products will be made available to job applicants and employees in written and accessible formats upon request.
- D. Requests for Internal Revenue Codes and Regulations** in larger print should be sent to the LER Division.
- E. Adaptive Technology.** The goal of the Information Resources Accessibility Program (IRAP) Office is to work closely with the employee with a disability and their manager to choose the adaptive technology that will best enable the performance of essential job duties. In addition to the purchase of adaptive computer equipment, IRAP offers services such as installation and integration; training on the use of the equipment; hardware maintenance; and software support.

IRAP associates work with managers and employees to:

1. Conduct needs assessments
2. Identify appropriate adaptive equipment solutions
3. Coordinate systems requirements with local IS support personnel

4. Provide ongoing technical support, etc.

F. In order to request IRAP services, contact the RAC.

G. Ergonomic Equipment. For reasonable accommodation only, funding has been allocated to cover ergonomic chairs and workstation modifications. Managers should refer questions or concerns regarding ergonomic furniture as a reasonable accommodation to the LER Division Office.

H. Reasonable Accommodation Flowchart. The Reasonable Accommodation Flowchart is a visual representation which provides managers and employees with a high-level view of the reasonable accommodation (RA) process.

15. External Reasonable Accommodation Resources

A. ADA Disability and Business Technical Assistance Centers (DBTACs) –
1-800-949-4232 (Voice/TTY)

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

B. Equal Employment Opportunity Commission

EEOC Washington Field Office

1-800-669-4000 (Voice)

1-800-669-6820(TTY)

[EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act \(July 27, 2000\)](#)

[EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act \(revised October 17, 2002\).](#)

EEOC Publication Center

1-800-669-3362 (Voice)

1-800-800-3302 (TTY)

<http://www.eeoc.gov>

With its headquarters in Washington, D.C., and through the operations of 50 field

offices nationwide, the EEOC coordinates all federal equal employment opportunity regulations, practices, and policies. The Commission interprets employment discrimination laws, monitors the federal sector employment discrimination program, provides funding and support to state and local Fair Employment Practices Agencies (FEPAs), and sponsors outreach and technical assistance programs.

C. Job Accommodation Network (JAN)

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

[JAN - Job Accommodation Network](https://askjan.org) Actual web address: <https://askjan.org>

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

D. Office of Disability Employment Policy (ODEP) (Formerly the President's Committee on Employment of People with Disabilities)

(202) 376-6200 (Voice)

(202) 376-6205 (TTY)

[ODEP | U.S. Department of Labor](https://www.dol.gov/agencies/odep) Actual web address: <https://www.dol.gov/agencies/odep>

ODEP's mission is to develop and influence policies and practices that increase the number and quality of employment opportunities for people with disabilities.

E. Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TT)

<http://www.rid.org>

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

F. RESNA Technical Assistance Project

(703) 524-6686 (Voice)

(703) 524-6639 (TT)

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

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

G. State Vocational Rehabilitation (VR) Agencies

http://www.workworld.org/wwwwebhelp/state_vocational_rehabilitation_vr_agencies.htm

State Vocational Rehabilitation (VR) agencies furnish a wide variety of services to help people with disabilities return to work. These services are designed to provide the client with the training and other services that are needed to return to work, to enter a

new line of work, or to enter the workforce for the first time. Participation in a VR program through your state VR agency can affect you in a number of ways.

16. Office of Primary Interest and Contact Information

IRS, Office of Chief Counsel

Reasonable Accommodation Coordinator

Email: CC.ReasonableAccommodationServices@irs.counsel.treas.gov

APPENDICIES

Appendix A. RA Request Form

Appendix B. RA Decision Form

Appendix C. RA Medical Inquiry and Documentation Request Form



IRS, Office of Chief Counsel

REASONABLE ACCOMMODATION REQUEST FORM

Please select one:

Applicant

Current Employee

Name: _____ Series/Grade: _____

Position Title: _____ Telephone Number: _____

Email Address: _____

Office/Bureau Name: _____

Office Location/Address: _____

Briefly describe the medical condition requiring accommodation:

Briefly describe the specific accommodation being requested (if additional space is needed, attach a separate sheet):

Please explain how the requested accommodation would assist you in 1) performing the essential duties of your position; 2) during the application process; or 3) taking advantage of a benefit or privilege offered by the office/bureau:

Supervisor/Interviewer Name: _____ Telephone Number: _____

Requestor Name: _____ Date: _____

Requestor Signature: _____

Please return to:

CC.ReasonableAccommodationServices@irscounsel.treas.gov

OR

Attention:

Reasonable Accommodation Request

Labor & Employee Relations Division (LER)

Finance & Management (FM)

IRS, Office of Chief Counsel

1111 Constitution Ave, NW Washington, DC DC 20224-0002

RA Number:

Reasonable Accommodation Decision Form

To be completed by the Deciding Official.

Accommodation approved as specifically requested

Accommodation approved but different from original request. Alternative accommodation offered was

Accepted

Rejected

Please describe the alternative accommodation provided.
Explain why the original accommodation requested was not provided and why the alternative accommodation would be more effective.

Accommodation denied because (check all that apply):

Individual does not meet the definition of an individual with disability as defined under the Rehabilitation Act and the Americans with Disabilities Act Amendments Act (ADAAA)

Accommodation ineffective/inappropriate

Accommodation would cause an undue hardship

Employee rejected an alternative accommodation

Medical documentation inadequate

Accommodation would require removal of essential functions of the job

Accommodation would require lowering of performance or production standard

Other (please explain)

Detailed reason(s) for the denial of reasonable accommodation (e.g. explain specifically why an accommodation would be ineffective or cause undue hardship) Please seek advice from Reasonable Accommodation Coordinator, LER Division before finalizing these detailed reasons:

If the individual did not accept an alternative accommodation, explain how the alternative accommodation addresses the limitation, and why you believe the chosen accommodation would be effective.

Deciding Official's Signature

If an individual wishes reconsideration, he/she should first ask the Deciding Official to reconsider the decision within 10 (ten) business days of receiving the written denial to provide reasonable accommodation. Any request for reconsideration received after 10 (ten) business days of the denial will be treated as a new request. The individual may present additional information in support of his/her request. The Deciding Official will respond to the request for reconsideration within 5 (five) business days. If the Deciding Official does not reverse the decision, the individual may appeal the decision within 10 (ten) business days of receiving the Deciding Official's denial of the request for reconsideration. The appeal shall be decided by the next level manager in the Deciding Official's chain of command or other senior official in the Deciding Official's chain of command. A response to the appeal will be issued to the individual within 10 (ten) business days.

An individual who chooses to pursue other available remedies must comply with the following:

- EEO Complaint--Contact the EEO Office within 45 calendar days from the date of receipt of the Deciding Official's written notice of denial;
- Collective Bargaining Claim--File a grievance within 30 calendar days in under the provisions of the current effect Counsel/NTEU Agreement; or
- MSPB Appeal--Initiate an appeal within 30 days of an appealable adverse action as defined in 5 C.F.R. §1201.3.If you wish to file an EEO complaint, you must contact your local EEO Office within 45 calendar days from the date of receipt of the Deciding Official's written denial of accommodation.



IRS, Office of Chief Counsel

REASONABLE ACCOMMODATION MEDICAL INQUIRY AND DOCUMENTATION REQUEST FORM

Employee/Applicant Name: _____

A. Questions to help determine whether a job applicant or employee has a disability.

For reasonable accommodation under the ADA, a job applicant or employee has a disability if they have an impairment that substantially limits one or more major life activities or a record of such impairment. The following questions may help determine whether a job applicant or employee has a disability:

Does the employee have a disability or physical or mental impairment? _____

If yes, what is the disability or impairment?

Is the disability or impairment long-term or permanent? _____

If *not* permanent, how long will the impairment likely last?

Answer the following questions based on what limitations the employee has when their condition is in an active state and what limitations the employee would have if no mitigating measures were used. Mitigating measures include things such as medication, medical supplies, equipment, hearing aids, mobility devices, the use of assistive technology, reasonable accommodations or auxiliary aids or services, prosthetics, and learned behavioral or adaptive neurological modifications. Mitigating measures do not have to include ordinary eyeglasses or contact lenses.

Does the impairment substantially limit a major life activity? _____

Note: Does not need to significantly or severely restrict to meet this standard.

If yes, what major life activity(ies) is/are affected?

- | | | | |
|-------------------------|-----------|----------|---------------|
| Caring for Oneself | Walking | Hearing | Lifting |
| Interacting with Others | Standing | Seeing | Sleeping |
| Performing Manual Tasks | Reaching | Speaking | Concentrating |
| Breathing | Thinking | Learning | Reproduction |
| Working | Toileting | Sitting | |

Other (*describe*): _____

Does the impairment substantially limit the operation of a major bodily function? _____

Note: Does not need to significantly or severely restrict to meet this standard.

If yes, what bodily function is affected?

Immune

Hemic

Circulatory

Normal Cell Growth

Special Sense Organs and Skin

Endocrine

Digestive

Lymphatic

Reproductive

Bowel

Neurological

Musculoskeletal

Bladder

Brain

Special Sense

Genitourinary

Respiratory

Other (describe): _____

B. Questions to help determine whether an accommodation is needed.

An employee with a disability is entitled to an accommodation only when the accommodation is needed because of the disability. The following questions may help determine whether the requested accommodation is needed because of the disability:

What limitation(s) is interfering with job performance?

What job function(s) is the employee having trouble performing because of the limitation(s)?

How does the employee's limitation(s) interfere with their ability to perform the job function(s)?

C. Questions to help determine effective accommodation options.

If an employee has a disability and needs an accommodation because of the disability, the employer must provide a reasonable accommodation, unless the accommodation poses an undue hardship. The following questions may help determine effective accommodations.

Do you have any suggestions regarding possible accommodations to improve job performance? _____

If so, what are they?

How would your suggestions improve the employee's job performance?

D. Comments.

Medical Professional Name/Title: _____

Medical Professional Phone Number: _____ Date: _____

Medical Professional's Signature: _____

Medical documentation must be treated as confidential and emailed to the
Reasonable Accommodation Coordinator (RAC),
CC.ReasonableAccommodationServices@irsounsel.treas.gov