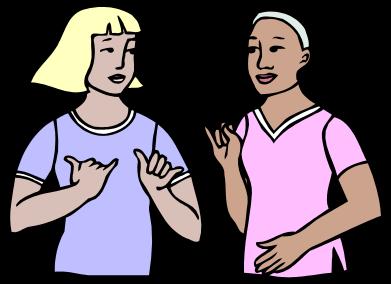
National Aeronautics & Space Administration

Stennis Space Center

Equal Opportunity Programs Office

Procedures for Requesting Reasonable Accommodation



Objectives

- Increase awareness and provide managers and supervisors with procedures to process requests for reasonable accommodations
- Define reasonable accommodation
- Process requests for reasonable accommodations
- Inform employees about the reasonable accommodation process
- Understand confidentiality and disclosure limitations regarding medical information
- Identify reasonable accommodation resources
- Effectively approve or deny a reasonable accommodation request
- Identify “key staff” to consult during the processing of a request for reasonable accommodation

Overview

- What is Reasonable Accommodation (RA)
- Types of Disabilities
- Key Terms
- Confidentiality
- Procedures for Requesting RA
- Reasons for Denial of a RA Request
- Requesting Medical Information for RA
- Minimal Information for Medical Documentation
- Reassignment as a RA
- EO Officer and Disability Program Manager Responsibilities
- RA Resources

What is Reasonable Accommodation (RA)?

An **adjustment** made to the job requirements and/or any change in the work environment enabling a qualified person with a disability to **perform** the essential duties of the job to which she/he is assigned.

- Example: Modifications to work schedules, equipment or devices; creating accessible facilities; providing readers or interpreters, etc.

- Reasonable accommodation SHOULD be provided without altering the position description or causing undue hardship to the agency.

- Reasonable accommodation WILL enable an individual with a disability to enjoy equal employment opportunities.

Types of Disabilities

A disability is a physical or mental impairment that substantially limits one or more major life activity(s) and 1) there is a medical record of the impairment, or 2) the person is regarded as having such an impairment.

- **Mobility/Motor Skills**
  - Partial paralysis, impaired motor skills, limited hand mobility, muscular dystrophy, cerebral palsy
    - May not be able to use a mouse or standard keyboard
    - May not be able to walk up a flight of stairs, open heavy doors, or lift light packages

Types of Disabilities (cont'd)

- **Vision**
  - Blindness, partial/low vision, color blindness, cataracts, glaucoma
    - **Color blindness/low vision -** may not see information on a computer if it is presented using color, small text, or images
- **Hearing**
  - Deafness and hard of hearing/hearing loss
    - May not have access to information in multimedia programs, web pages, training or videos <u>unless</u> closed captioning is provided

Types of Disabilities (cont'd)

- **Cognitive**
  - Learning/information processing difficulties (may result from brain injury or illness)
    - May need additional time to process information, others may need an alternative format such as visual/hearing/other alternative
- **Mental**
  - Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities
- **Other**
  - Chronic conditions or long-term illness such as asthma, heart disease, HIV, chronic fatigue syndrome (CFS)

Key Terms

- **Individual with Disability:** a person who has a physical or mental impairment which substantially limits one or more major life activity, s/he has a record of the impairment, or s/he is regarded as having such an impairment.

- **Major Life Activity:** personal function required to care for one's self. (i.e. perform manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working)

- **Undue Hardship:** significant difficulty or expense that focuses on the resources and circumstances of the employer in relationship to the cost or difficulty of providing a specific accommodation (i.e. financial difficulty; RA is unduly extensive, substantial, disruptive, or will fundamentally alter the nature or operation of the business)

Key Terms (cont'd)

- **Decision Maker (DM):** person who determines whether to approve or deny the request for RA. In most cases the DM is employee's immediate supervisor, or in the case of an applicant, the HRS assigned to process the vacancy.

- **Disability Program Manager (DPM):** a member of the EOPO staff who is responsible for the oversight of the RA process.

- **Third Party:** a person other than employee/applicant who acts on that individual's behalf. (i.e. spouse, doctor, social worker, other representative). Third party designation or the rescinding of a designation must be provided in writing.

Confidentiality

- Information obtained in connection w/ RA process must be kept confidential.
  - Any medical information, including functional limitations, must be kept separate from the OPF
  - Any NASA employee receiving or obtaining such information is bound by the Privacy Act of 1974
  - Confidential information sharing to other agency officials is only permissible when there is a NEED TO KNOW in order to make a determination on a RA request or to assist the DM with making a determination
- EO Officer maintains custody of all records obtained or created during RA process EXCLUDING medical records and Agency attorney documentation.
- "Discloser" must inform recipients of confidentiality requirements and Privacy Act
- Supervisors/managers who *have a need to know* may be told about work restrictions, limited duty, and any necessary accommodation

Procedures for Requesting RA

NPG 2080.1A
NPD 3713.8A

http://Nodis3.gsfc.nasa.gov

Procedures for Requesting RA

STEP 1: RA request is made directly to the individual's IMMEDIATE Supervisor (Decision Maker-DM)

- RA request may be oral or in writing, including email transmission
  - If initially received orally, by email, or written statement individual must also submit RA on NASA Form 1699 http://nef.nasa.gov/
  - All employee requests for RA must be on NASA Form 1699
  - RA request may be made by individual or third party
  - DM should transfer information provided from an oral or email request to NASA Form 1699 or provide employee with NASA Form 1699 for completion**.

- Processing shall begin immediately upon receipt of the initial RA request from the employee

- Requests for reasonable accommodation must be processed and finalized within 20 business days

- **** FORM MUST BE COMPLETED NOT LATER THAN ONE (1) BUSINESS DAY AFTER AN INITIAL REQUEST IS MADE IN ANY OTHER FORMAT OTHER THAN ON NASA FORM 1699**

Procedures for Requesting RA (cont'd)

- If RA request is received from a 3rd party, the DM is responsible for confirming the request with the individual requiring the RA.

- All DMs must have designated back ups to receive, process, and finalize RA requests. *PROCESSING TIMEFRAMES WILL NOT BE SUSPENDED OR EXTENDED BECAUSE OF THE UNAVAILABILITY OF A DM.*

- Employee can make a request for RA to any member of Center management or EOPO Staff.

- If RA request is not submitted to the immediate supervisor:
  - Forward it to the EOPO for review and processing
  - EO Officer is the DM for requests submitted to someone other than the immediate supervisor or HRS
  - EO Officer will designate or contact the appropriate DM and provide notification of the receipt of a RA request w/in 2 business days
  - DM will continue to process the RA request until a determination is made to approve or deny the request

Procedures for Requesting RA (cont'd)

STEP 2: DM shall contact the DPM

- DPM provides direction and assists with resolution of any obstacles arising as a result of the interactive process
- DM will contact EOPO office to obtain Document Control Number (DCN)
- DM will forward copy of completed NASA Form 1699 to DPM w/in **2 business days** of receiving DCN
- DM will inform DPM about the request for RA, and review the status to consult on the strategy for processing the RA request

STEP 3: As appropriate, DM will consult with SSC Physician, EAP, Facilities Specialists, IT Specialists, HR Benefits Specialists, HR Staff, and/or Chief Counsel's Office

Procedures for Requesting RA (cont'd)

STEP 4: RA Analysis

- Based on Interactive Process results AND within **3-5 business days**, DM will:
  - Conduct analysis of information provided including undue hardship determinations
  - Meet with DPM to determine if additional information is needed, explore additional RA options, discuss potential hardships, legal impact, etc.
  - If applicable, coordinate with Computer/Electronic Accommodations Program (CAP), procurement or RA requestor to secure estimate pricing, vendor and type of accommodation

Procedures for Requesting RA (cont'd)

STEP 5: RA Follow Up or Decision

- As a result of the analysis, interactive communications and consultation, the DM will:

- Request supporting/additional medical documentation (if necessary) - Immediately or as soon as possible
  - Or
- Make a final decision (w/in 1 business day of final consultation, unless additional info needed)
  - Complete NASA Form 1699A, Disposition of Request for Reasonable Accommodation (http://nef.nasa.gov/)
  - Attach additional sheets if necessary
  - Contact DPM prior to final decision notification to the employee
  - Discuss the decision with the employee
  - RA employee acknowledges receipt of decision by initialing and dating the DM's copy of NASA Form 1699A

Procedures for Requesting RA (cont'd)

STEP 6: RA Approval or Denial

Approved –

- Make arrangements to secure accommodation NLT 2 business days after approval. Funding determinations and costs associated with the accommodations is the responsibility of the individual's department/division.
- RA must be finalized within 20 business days
- Complete NASA Form 1699-A and provide to individual (See Step 5)
- Notify EO Officer or DPM of status, analysis and disposition. Forward copies of all forms and supporting documentation.
- Medical documentation must be forwarded to EOPO for action

Procedures for Requesting RA (cont'd)

STEP 6: RA Approval or Denial (cont'd)

Denied-

- Complete NASA Form 1699-A and provide to individual (See Step 5)
- RA must be finalized within 20 business days
- Written in plain language, clearly state reasons for denial of requested accommodation and reasons why chosen accommodation will be more effective. May include justification for undue hardship for requested RA.
- Notify EO Officer or DPM of status, analysis and disposition. Forward copies of all forms and supporting documentation.
- Medical documentation must be forwarded to EOPO for action

Reasons for Denial of a RA Request

- The requested accommodation would not be effective
- Providing requested RA would result in undue hardship for the agency
- Inadequate medical documentation – unable to establish disability and/or the need for accommodation
- Requested accommodation would require elimination of an essential function(s) of the job
- Requested accommodation would require lowering a performance standard
- If denied, the individual must be given information about their rights to file an EEO complaint, alternative dispute resolution, reconsideration procedures, alternate avenues of redress (45 calendar day rule still applies to unlawful discrimination allegations)

Requesting Medical Information for RA

- Request medical documentation if/when the disability and the need for accommodation are not obvious
- If the disability is obvious or otherwise already known to DM, Center will **not** seek additional medical documentation from the requestor UNLESS the Center physician believes that medical information is necessary in order to evaluate the request
- Any additional requests for medical information must pertain ONLY to the disability that requires the accommodation.
- Additional medical information requests may be made only to substantiate that the individual has a disability.

Requesting Medical Information for RA (cont'd)

- Additional medical information requests may be required to determine the need(s) for the requested accommodation.

- In order to receive the most helpful information possible, all requests for medical information should describe the nature of the job, essential function(s) expected of the individual, and other relevant information that may be required to assist the DM with reaching a determination.

- Requestor is responsible for providing sufficient documentation to support request. Documentation can be from a social worker, doctor, counselor or SSC physician, and includes statements from the spouse, doctor prescribed time off, and any information on equipment solutions.

Minimal Information for Medical Documentation

- Sufficient medical documentation criteria-
  - Describes nature, severity and duration of impairment
  - Describes activity(s) that impairment limits
  - Describes extent of limitation and inability to perform duties of their current position
  - Describes why individual requires accommodation
  - Describes medications and possible side effects

- Individual may opt to sign Limited Release form authorizing NASA to contact his/her medical provider directly. The form must be reviewed by Chief Counsel's office.

- DM must explain that the employee's failure to provide medical documentation could be cause for denial.

Reassignment as a RA

- **Only** consider reassignment as a RA if no accommodations are available to:
  - Enable the person to perform the essential functions of the job, (or)
  - If the only effective accommodation would cause undue hardship
- DM coordinates with HR and the individual to identify:
  - All vacant positions in which individual qualifies for with or without RA
  - All positions which HR has reason to believe will become vacant over next 60 business days and which individual is qualified for with or without accommodation
- Consideration is first placed on equivalent jobs in terms of pay, status, etc. If none, consider vacant lower level positions for which the individual is qualified

Reassignment as a RA – (cont'd)

- If employee is willing to relocate:
  - Reassignment to a vacant position outside of employee's commuting area can be granted as RA to a qualified career or career-conditional employee
  - Transportation & relocation costs are employee's responsibility

- Existing Vacant Position:
  - A qualified employee w/ a disability can be offered a reassignment to an existing vacant position as long as selection **has not** been made.

SSC's EO Officer and Disability Program Manager Responsibilities

- Monitor Center RA needs
- Coordinates with the Chief Counsel's office when responding to all RA record disclosure requests
- Provide annual statistical report on reasonable accommodation provisions to HQ
- Retain Center RA records for the length of individual's tenure or 5 years whichever is **longer**
- Monitor status of all Center RA requests
- Maintain log of all Center RA requests
- Prepare annual report for distribution to HQ
- Provide assessment of Center's RA program, including recommendations for improvement

Reasonable Accommodation Resources

- For CAP assistance www.tricare.osd.mil/cap
- U.S. Equal Employment Opportunity Commission 800-669-4000
- ADA Disability and Business Technical Assistance Centers (DBTACs) 800-949-4232
- U.S. Department of Labor 202-219-8412
- Job Accommodation Network (JAN) 800-232-9675 or http://janweb.icdi.wvu.edu
- U.S. Access Board www.access-board.gov or 202-272-0080
- Registry of Interpreters for the Deaf 301-608-0050
- SSC EOPO DPM
- 42 U.S.C. 12116; 29 CFR 1630