

PROCEDURES FOR PROVIDING REASONABLE ACCOMMODATIONS

1.0 Purpose

The Peace Corps (the Agency) is committed to ensuring equal access to employment opportunities for individuals with disabilities. Effective processes for providing reasonable accommodations and personal assistance services are key to upholding that commitment and to dismantling structural and attitudinal barriers that unfairly exclude people with disabilities from the workplace. These processes also enable the Agency to expand its pool of qualified workers, thus allowing the Agency to benefit from the talents of all people, including those with disabilities.

It is the Agency's policy to fully comply with the requirements of the Rehabilitation Act and other applicable laws that require reasonable accommodations and personal assistance services. In accordance with the Rehabilitation Act's Section 501, this attachment provides the Agency with standard operating procedures for: 1) processing requests for reasonable accommodations from employees and applicants for employment with disabilities; and 2) processing requests for personal assistance services from employees with targeted disabilities.

2.0 Authority

The guidance in this issuance is pursuant to:

- (a) Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16);
- (b) The Rehabilitation Act of 1973, as amended (29 U.S.C. 791 & 794a)(Rehabilitation Act);
- (c) Executive Orders 13164, 13163 and 13078;
- (d) 29 CFR Part 1630;
- (e) 29 CFR 1614.203;
- (f) Equal Employment Opportunity Commission's Management Directive (MD) 110, MD 715; and
- (g) Equal Employment Opportunity Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act.

3.0 Definitions

- (a) **Accessible.** Easy to approach, enter, operate, participate in, and/or use safely and with dignity by a person with a disability (including a site, facility, work environment, service, or program-- including digital events and webpages).

- (b) **Disability.** Any physical or mental impairment that substantially limits a major life activity; or a history or record of such an impairment; or being regarded as having such an impairment. This definition includes impairments that are episodic or in remission. An impairment need not prevent, or significantly or severely restrict, performance of a major life activity to be “substantially limiting.”

Under the Rehabilitation Act, the term “disability” should be interpreted in favor of broad coverage so that it covers a wide range of conditions. Extensive analysis should not be required to determine whether an individual has a disability.

- (c) **Essential Functions.** The essential functions of a job are those job duties that are so important to the position that the individual cannot do the job without being able to perform these duties. They are the fundamental job duties of the employment position the employee with a disability holds or the applicant with a disability seeks. A function can be 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 if it were assigned to them, or the function is specialized and the incumbent is hired based on his or her ability to perform it.
- (d) **Extenuating Circumstances.** These are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation.
- (e) **Genetic Information.** “Genetic information,” as defined by the Genetic Information Act of 2008 (GINA), includes an individual’s family medical history, the results of 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 held by an individual or family member receiving assistive reproductive services.
- (f) **Impairments that are Episodic or in Remission.** An impairment that is “episodic” or “in remission” is a disability if it would substantially limit a major life activity when active. Examples of impairments that may be considered episodic or in remission include epilepsy, hypertension, multiple sclerosis, asthma, diabetes, major depression, bipolar disorder, schizophrenia, and cancer.
- (g) **Major Life Activity (MLA).** MLAs include “major bodily functions,” such as, for example, functions of the immune system; normal cell growth; digestive, bowel, bladder, neurological, brain, circulatory, respiratory, endocrine, hemic, lymphatic, musculoskeletal, special sense organs and skin, genitourinary, and cardiovascular systems; and reproductive functions. MLAs also include, for example: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.
- (h) **Personal Assistance Services.** Services that provide assistance performing activities of daily living that a disabled individual would typically perform if they did not have a

disability, and that is not otherwise required as a reasonable accommodation. Examples include assistance with removing and putting on clothing, eating, and using the restroom.

- (i) ***Personal Assistance Service Provider.*** The term personal assistance service provider means an employee or independent contractor whose primary job functions include provision of personal assistance services.
- (j) ***Qualified Individual with a Disability.*** A person who meets legitimate skill, experience, education, or other requirements of an employment position that they hold or seek, and who can perform the essential functions of the position with or without reasonable accommodation.
- (k) ***Reasonable Accommodation.*** A reasonable accommodation is a change to the way things are customarily done in the workplace that provides equal employment opportunity to a person with a disability.

Examples of reasonable accommodations include:

- (i) providing a sign language interpreter to an employee who is Deaf so that they can attend an Agency-sponsored holiday party;
 - (ii) Allowing an employee who is undergoing chemotherapy treatment for cancer to telework more frequently than otherwise would be allowed;
 - (iii) Providing software to an employee with a visual disability to allow them to magnify the size of the text on their computer monitor.
- (l) ***Targeted Disability.*** The term targeted disability means a disability that is designated as a targeted disability or health condition on the Office of Personnel Management's Standard Form 256 or that falls under one of the first 12 categories of disability listed in Part A of question 5 of the Equal Employment Opportunity Commission's Demographic Information on Applicants form.
- (m) ***Undue Hardship.*** An accommodation can be determined to cause an undue hardship if implementing the accommodation would be unduly extensive, substantial, disruptive, or would fundamentally alter the nature or operation of the Agency. Undue hardship can also be determined if the accommodation is significantly costly based on the resources available to the Agency as a whole. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the agency.

4.0 Assistance with these Procedures

The Agency's Office of Civil Rights (OCR) facilitates the Agency's reasonable accommodation and personal assistant services processes. OCR may and should be consulted on any issue or question pertaining to the processes discussed here.

5.0 Provision of Reasonable Accommodations

Reasonable accommodations must be provided to qualified individuals with a disability unless to do so would be an undue hardship to the Agency.

Reasonable accommodations must be provided to allow an individual with a disability to:

- (i) apply for a job;
- (ii) perform the essential job functions of a job; and/or
- (iii) enjoy the benefits and privileges of employment as would similarly situated employees without disabilities.

6.0 The Reasonable Accommodation Request Process

The reasonable accommodation request process has three steps, as follows:

- (a) Making a request;
- (b) The interactive process; and
- (c) Resolving the request.

Each of the three steps is described below.

6.1 Making a Request

If an employee or employee applicant with a disability needs an accommodation, they must first make a request. The reasonable accommodation process begins as soon as a request is made to an authorized individual or office under 6.1(b)(1). The below steps explain when and how a request should be made as well as who can make a request.

- (a) ***When to Make a Request.*** A request for a reasonable accommodation can be made at any time. The requestor need not have any particular accommodation in mind before making a request.
- (b) ***How to Make a Request.*** To make a request, an individual must inform an authorized individual or office as defined in 6.1(b)(1) that they need a change in the workplace due to a disability or medical condition. The request can be made orally or in writing, does not need to be made on any particular form, though it is recommended that requestors use the MS 653 Attachment E – Reasonable Accommodation Request Form available in Appendix I, and does not need to use any particular words such as "reasonable accommodation" or "disability."
 - (1) Requests must be made only to an office or individual authorized to receive accommodation requests:

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- (i) Individuals and offices authorized to receive requests from Agency employees are:
 - (A) The Office of Civil Rights;
 - (B) The employee's supervisor;
 - (C) Another supervisor or manager in the employee's immediate chain of command; and
 - (D) As applicable, any other individual or office designated in writing as a point of contact for receiving reasonable accommodation requests for an Agency event or service.
 - (ii) Individuals and offices authorized to receive requests from applicants for employment regarding the employment application process are:
 - (A) Any Agency employee connected with the application process; and
 - (B) The Office of Civil Rights.
- (2) Repeated Requests: Where an individual has requested a type of reasonable accommodation that they are likely to need on a repeated basis, the individual shall not be required to submit a written request for recordkeeping purposes each time the accommodation is needed, and may not be required to submit a request at all. Once the reasonable accommodation is approved the first time, the employee, OCR, and the decision maker shall meet to determine how the employee's repeated needs will be met, depending on the circumstances of each situation.
- (3) Responsibility of authorized individuals and offices to recognize and respond to requests: It is the responsibility of anyone authorized to receive a request to recognize requests for accommodation and to move forward with processing them immediately in accordance with the interactive process in 6.2. Below are examples of accommodation requests:
- (A) Example A: An employee tells her supervisor, "I'm having trouble getting to work at my scheduled starting time because of medical treatments I'm undergoing." This is a request for a reasonable accommodation.
 - (B) Example B: An employee tells his supervisor, "I need six weeks off to get treatment for a back problem." This is a request for a reasonable accommodation.
 - (C) Example C: A new employee, who uses a wheelchair, informs the employer that her wheelchair cannot fit under the desk in her office. This is a request for reasonable accommodation.

- (D) Example D: An employee tells his supervisor that he would like a new chair because his present one is uncomfortable. Although this is a request for a change at work, his statement is insufficient to put the employer on notice that he is requesting reasonable accommodation. He does not link his need for the new chair with a medical condition.
- (E) Example E: An employee tells his supervisor that he has sleep apnea and has been having trouble sleeping. A few days later, the supervisor notices the employee is falling asleep during meetings. This is not a request for reasonable accommodation since the employee has not stated that they need a change in the workplace, though they have revealed that they have a disability. The supervisor nevertheless, can educate all of their employees, including the employee with sleep apnea, about their right to a reasonable accommodation and let them know that if they need a change in the workplace due to a disability, they can make a request for reasonable accommodation.

(c) ***Who Can Make a Request.*** Requests can be made by:

- (1) An employee with a disability;
- (2) An employee applicant with a disability; or
- (3) A third party representative of the employee or employee applicant with a disability such as a family member or health professional.
 - (i) When a third party (e.g., an individual's doctor) requests accommodation on behalf of an applicant or employee:
 - (A) The authorized individual who received the request should refer it to the Office of Civil Rights
 - (B) The Office of Civil Rights shall confirm with the applicant or employee that they want a reasonable accommodation before proceeding;
 - (C) Where this is not possible, for example, because the employee has been hospitalized in an acute condition, the Agency will process the third party's request if it seems appropriate (e.g., by granting immediate leave) and will consult directly with the individual needing the accommodation as soon as practicable.

An individual who is only "regarded as" having a disability is not eligible for a reasonable accommodation; an applicant or employee must have an actual disability or a record of a disability to be eligible for reasonable accommodation.

6.2 After the Request is made: The Interactive Process

Once a request has been made, the Agency must engage in “the interactive process.” The interactive process is simply a series of communications between the Agency and the requestor to determine what, if any, accommodation should be provided. Communication is a priority throughout the interactive process. Decision makers, such as the employee’s supervisor, must communicate with the requestor early on and throughout the interactive process as directed by OCR Below, the steps to the interactive process are outlined.

- (a) All requests, including oral requests, must be processed immediately. The individual who receives the request should not wait until a written request or a record-keeping confirmation form is received to take action. See 8.0 “Time Frames for Resolving Requests” for important deadlines.

- (b) ***When a Request is made to an Authorized Individual or Office that is not OCR.***

- (1) The receiver of the request should:

- (i) Immediately contact OCR for advice and guidance; or
 - (ii) Refer the requestor to OCR in writing; or
 - (iii) Approve and provide the request in accordance with 8.1(a)(1) “Approving and Providing a Request without OCR input.”

- (2) An authorized individual who receives a request should never simply deny a request. Denials must follow the process in 8.2 “Denying a Request.”

- (c) ***When OCR Receives the Request.*** If the requestor made the request directly to OCR or if a requestor is referred to OCR

- (1) OCR will counsel the individual on the reasonable accommodation process. As part of that counseling, OCR will review with the requestor whether their needs can be filled through non-reasonable accommodation channels.

- (2) If, after counseling, the employee decides to pursue their needs through non-reasonable accommodation channels and no longer wishes to proceed with the reasonable accommodation request, OCR record that request for accommodation as “withdrawn.” OCR shall make it clear to the employee that they can reinstate a withdrawn request for accommodation at any time.

- (3) If the requestor decides to proceed with the accommodation request, will: OCR

- (i) Request medical documentation from the requestor in accordance with Section 7.0.
 - (ii) Identify the appropriate decision maker(s) for the request.

- (A) The decision maker(s) will depend on the circumstances of each situation. For example, the Office of Administrative services is generally the decision maker for requests for chairs, desks, or parking; the Office of the Chief Information Officer is generally the decision maker for requests for technology such as computer hardware or software; and an employee's supervisor is generally the decision maker for requests pertaining to an employee's schedule, telework, and job responsibilities.

For some requests, the labor union, The Office of Human Resources, or the Office of General Counsel may also need to provide input as decision makers or stakeholders.

Ultimately, though an individual or office may be designated as a decision maker for a reasonable accommodation, their decision will always be subject to review from the Office of General Counsel, as well as from the Agency Chief of Staff, Deputy Director, or Agency Director. No accommodation may be denied without the review of the Office of the General Counsel.

- (iii) Once the appropriate decision maker(s) has been identified, OCR will attempt to resolve the request, engaging in conversations with the requestor, decision maker, and other stakeholders until resolution is reached.

- (A) Throughout the interactive process until resolution is reached, the decision maker and other agency stakeholders may propose alternative accommodations that would also be effective at meeting the requestor's needs, including accommodations that are less expensive or more convenient. Decision makers as well as requestors can consult OCR as well as the resources in 17.0 for information on alternative accommodations.

7.0 Medical Documentation

- (a) **Medical Documentation May Be Required:** The Agency may in some circumstances require an individual to submit medical documentation before approving a request. All requests for medical documentation should be made to the requestor by OCR. The requestor should submit their medical documentation directly to OCR. OCR shall determine, in consultation with any relevant decision-makers and stakeholders, the degree of medical documentation, if any, required to move forward with their accommodation request. An individual who requests a reasonable accommodation may be required to provide medical documentation to OCR that is sufficient to explain:

- (1) the nature of the individual's disability;
- (2) the individual's need for reasonable accommodation; and

- (3) how the requested accommodation will assist the individual in applying for a job, performing the essential functions of a job, or enjoying the benefits and privileges of the workplace.
- (b) When Medical Documentation Cannot Be Requested: The Agency cannot, however, request medical documentation if:
 - (1) the disability and need for the requested accommodation are both obvious (for example, an employee who uses a wheelchair requests a ramp to access a workplace that is only accessible by stairs); or
 - (2) the employee has already submitted medical documentation sufficient to establish that they have a disability and need the requested accommodation.
- (c) Discretion Regarding Medical Documentation: The Agency does have discretion to provide reasonable accommodations without requiring the full extent of medical documentation they are allowed to obtain. OCR shall, in consultation with other stakeholders, determine how much, if any, medical documentation will be required for each request.
 - (1) The Agency is encouraged to use this discretion reasonably when appropriate to facilitate the inclusion of individuals with disabilities in the Agency and to promote efficiency.
 - (2) OCR should base their decision primarily on:
 - (i) Feedback from stakeholders and decision-makers regarding the difficulty of providing the accommodation and/or the accommodation's impact on the workplace:
 - (A) For example, more medical documentation may be required to approve a request for an employee to telework full-time permanently, and less medical documentation to approve a request to telework once per month temporarily, since the second request would generally have less of an impact on the workplace.
 - (ii) Other factors may also be considered on a case-by-case basis as appropriate.
 - (iii) Reasons that are discriminatory, retaliatory, or that violate any law shall not be considered.
 - (iv) The Agency is also encouraged to be reasonably flexible in applying the medical documentation requirement in instances when interim accommodations or expedient review are needed.
 - (3) When requests are approved without the full extent of medical documentation, the Agency retains the right to later request complete medical documentation to allow the accommodation to continue.

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- (4) If OCR determines that it is necessary to obtain medical documentation to determine justification for the reasonable accommodation request, OCR will make such request of the employee directly as soon as possible after their receipt of the request for accommodation.
- (d) Requesting and submitting medical documentation: In cases in which OCR has determined that medical documentation is required, the medical documentation generally should be requested from the individual by OCR and provided directly to OCR. Decision makers are discouraged, though not specifically precluded, from requesting medical documentation for reasonable accommodation requests directly from any individual.
- (1) An employee who wishes to submit medical documentation to substantiate their request is encouraged to use the MS 653 Attachment G – Medical Documentation form in Appendix III or may have an appropriate professional provide the information requested by the form in another document.
- (e) Requests for supplemental medical information: If the medical documentation provided by the requestor is insufficient, OCR may request supplemental medical information. In such cases:
- (1) OCR will explain in writing to the individual seeking the accommodation, in specific terms:
- (i) Why the information that has been provided is insufficient;
 - (ii) What additional information is needed; and
 - (iii) Why it is necessary for a determination of the reasonable accommodation request.
- (2) The requestor may then ask the health care professional or other appropriate professional to provide the missing or supplemental information; or
- (3) The authorizing official or OCR and the individual requesting the accommodation may agree that the individual will sign a limited release, and OCR may thereafter submit a list of specific questions to the individual's health care professional or may otherwise contact the individual's healthcare provider.
- (4) Only information relevant to making a decision about the accommodation will be requested by the Agency. The Agency should not ask for medical information exceeding what is reasonably necessary to assess a request. As such, the information requested should cover the following:
- (i) The nature, severity, and duration of the individual's impairment;
 - (ii) The activity or activities that the impairment limits;

- (iii) The extent to which the impairment limits the individual's ability to perform the activity or activities;
 - (iv) Why the individual requires reasonable accommodation or the particular reasonable accommodation requested; and
 - (v) How the reasonable accommodation will assist the individual to apply for a job, perform the essential functions of the job, or enjoy a benefit or privilege of the workplace.
- (5) The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically permitted. To comply with this law, no genetic information shall be provided when responding to a request for medical information.
- (f) Reviews of medical documentation or physical examination by medical experts: In some circumstances, the decision maker may request that a medical expert chosen by the Agency examine the individual or review the requestor's medical documentation, at the Agency's expense. In such cases, the Agency will be advised by the physician of the individual's relevant medical condition and any additional relevant information about the individual's functional limitations, as appropriate.
- (g) Failure to provide sufficient medical information: The failure to provide appropriate documentation or to cooperate in Agency efforts to obtain such documentation can result in a denial of the reasonable accommodation.
- (h) Medical information must be kept confidential: All medical information must be kept confidential and separate from an employee's personnel file. See 11.0 for more information on confidentiality.

8.0 Resolution of Requests

A request is considered resolved when it is either: a) provided; b) denied; or c) withdrawn by the requestor.

8.1 Providing a Request

A request is considered "provided" when the requestor has received a workplace change that is effective at meeting their needs. This includes instances in which the requestor receives an alternative accommodation that is different from that which they originally requested, so long as the alternative accommodation is effective.

- (a) **Approving a request:** Before a request is provided, it must be approved. A request is considered approved when, after the interactive process, the decision maker agrees to provide the employee with the requested accommodation, or an effective alternative accommodation.

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- (1) **Approving and Providing a Request without OCR input:** To eliminate unnecessary levels of review, first-line supervisors, and other individuals authorized to provide the requested workplace change, are encouraged and authorized to independently evaluate and approve requests wherever possible for simple and straightforward reasonable accommodations, absent undue hardship.
 - (2) When doing so, they should make sure to complete the following items:
 - (i) Decision makers who authorize this type of accommodation must still inform OCR of their approval of the accommodation and follow-up on requests for information regarding the request from OCR;
 - (ii) If the decision maker is unsure whether an accommodation is simple and straightforward, the individual should contact OCR for advice;
 - (iii) Ensuring that they have the authority to approve the request;
 - (iv) Making any necessary arrangements to ensure that the accommodation is provided as quickly as possible and within the applicable time limit;
 - (v) Documenting via email or another written form with the requestor that their request has been filled and works for their needs.
 - (b) **Documentation of approved requests:** OCR shall document the approval of the accommodation request. Such documentation may be in the form of the MS 653 Attachment F – Resolution of Reasonable Accommodation Request Form in Appendix II, a memo, or email correspondence.
 - (c) **Ensuring approved requests are provided:** OCR and the decision maker should track the request to make sure that it is actually provided to the employee within the required timeframe, and follow-up to trouble shoot if necessary.
 - (1) The requestor should consult with OCR if they have any concerns about the provision or implementation of the accommodation request after it is approved.

8.2 Denying a Request

- (a) Under no circumstances should any request be denied without first consulting with OCR. A decision maker who believes that a request may need to be denied should immediately consult both with OCR and the Office of the General Counsel to determine how to proceed.
- (b) Reasons why a request may be denied:
 - (1) A request may be denied, for example, if:
 - (i) The medical documentation is insufficient;

(ii) The requested accommodation would not be effective; or

(iii) The accommodation would pose an undue hardship to the Agency

(A) When determining whether or not a request is an undue hardship, all of the resources and options available to the Agency must be considered.

Determination of undue hardship must be made on a case-by-case basis, considering factors that include the nature and cost of the accommodation requested and the impact of the accommodation on the operations of the Agency as a whole.

(2) **Cost should rarely be a reason for denying an accommodation:** A request for accommodation should not be denied for reasons of cost if the resources available to the Agency as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation, would enable it to provide an effective accommodation without undue hardship. If the cost of the accommodation is a concern, decision makers should consult with OCR to determine what Agency resources are available to cover the costs associated with accommodation requests. See 10.0 “Cost” for further information on cost.

(c) **Reassignment must be offered before a denial is issued:** If no reasonable accommodation that can be provided by the Agency will allow the employee to perform the essential functions of their job, reassignment must be offered to the employee as an alternative accommodation before a denial of the request is issued. See 12.4 “Reassignment.”

8.3 Withdrawing a Request

A request will be considered withdrawn by the requestor when:

- (a) an individual informs the Agency that they no longer wish to proceed with the request;
- (b) the requestor is unresponsive to Agency communications for 90 calendar days;

Withdrawn requests can be reinitiated at any time by the requestor.

8.4 Notification of the Final Decision

(a) OCR will provide all requestors with notification of the final decision regarding their request, except when the decision maker in accordance with 8.1(a)(1) “Approving and Providing a Request without OCR input.” Such notifications may be in the form of a memo or email correspondence. In such instances, the decision maker must provide the requestor with notice of the approval.

(b) Notification of denials: OCR will inform all requestors of any denials of accommodation requests. Supervisors or other individuals involved in the reasonable accommodation process shall not provide notice to a requestor that their request was denied.

- (1) Denials of requests cannot be made orally or informally. Rather, denial notifications should be provided in writing to the requestor by OCR using the MS 653 *Attachment F – Resolution of Reasonable Accommodation Request Form* in Appendix II, which complies with denial notice requirements stipulated by Section 501 of the Rehabilitation Act. In accordance with that Section, the form must include a specific reason why the request was denied.
- (2) The Office of General Counsel must clear any denials of accommodation before they are communicated to the requestor. In limited instances in which quick responses may be necessary, for example if a particular request for sign language interpretation cannot be provided, the Office of General Counsel should be made aware of the denial as soon as possible.

8.5 Reconsideration of a Denial

Requestors who have been denied a reasonable accommodation, are strongly encouraged to use voluntary informal dispute resolution in order to obtain prompt reconsideration of denials. Note that requesting informal dispute resolution does not extend the time limits for filing complaints under 8.6 “Statutory Remedies.” To learn about dispute resolution services that may be available under MS 656, the requestor should contact OCR.

8.6 Statutory Remedies

Individuals who have been denied reasonable accommodations have the right to file complaints pursuant to 29 CFR 1614.106. An individual who chooses to pursue statutory remedies for denial of reasonable accommodation must contact the OCR or an EEO Counselor within 45 days of becoming aware of the adverse action and express their intent to file an Equal Employment Opportunity (EEO) complaint. See Peace Corps MS 653 Attachment B for procedures on how to file such a complaint.

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 participates in an informal dispute resolution process.

Staff members involved in the processing of the request for reasonable accommodation will recuse themselves from any involvement in the processing of an EEO complaint (Pre-complaint or Formal) in connection with that request.

9.0 Time Frames for Resolving Requests

9.1 Requests Must Be Resolved as Quickly as Possible

All requests, including oral requests, must be resolved, as defined under 8.0 “Resolved,” in as short of a time frame as reasonably possible. Unless a delay is caused by an extenuating circumstance or the accommodation isn’t needed until later, a reasonable accommodation should take no more than 45 business days to reach resolution. This timeline starts to run on the date the request is first made to an individual or office authorized to receive the request and ends when

the request is resolved. Where an accommodation can be provided in less than 45 business days, failure to provide the accommodation in a prompt manner may result in a violation of the Rehabilitation Act.

9.2 Delays

If there is any delay for any reason, including for extenuating circumstances, in either processing the request or in providing the reasonable accommodation, the Agency must:

- (a) Notify the requester of:
 - (1) the reason for the delay, including any extenuating circumstances that justify the delay; and
 - (2) the approximate date on which a decision, or provision of the reasonable accommodation, is expected; and
- (b) The Agency must also investigate whether there are temporary measures or interim accommodations that could be taken to assist the requester during the delay.

9.3 Interim Accommodations

When all the facts and circumstances known to the Agency make it reasonably likely that an individual will be entitled to a reasonable accommodation, but the accommodation cannot be provided immediately, the Agency shall provide an interim accommodation that allows the individual to perform some or all of the essential functions of his or her job, if it is possible to do so without imposing undue hardship on the Agency.

9.4 Expedient Review Process

- (a) In certain circumstances, a request for reasonable accommodation may require an expedient review and decision in less than 45 calendar days. This includes situations where, for example, a reasonable accommodation is needed:
 - (1) To enable an applicant to apply for a job;
 - (2) To enable an employee to attend a meeting scheduled to occur shortly.
- (b) In cases where expedient review is needed:
 - (1) The requestor and/or any authorized individual who received the request must contact OCR immediately and inform them of the need for expedited processing;
 - (2) OCR will then process the request as quickly as reasonably possible;
 - (3) The decision maker and all other Agency stakeholders must also act as quickly as reasonably possible to expedite the request; and

- (4) If appropriate, the Agency will provide an accommodation. However, expedited requests may also be delayed due to extenuating circumstances or due to the request for medical documentation.

9.5 Extenuating Circumstances

Some accommodations may take longer than 45 business days to provide due to extenuating circumstances. Extensions based upon extenuating circumstances should be limited to circumstances where it is difficult or impossible to provide an accommodation within 45 business days. Failure to meet the 45-day timeframe solely because a deciding official delayed processing the request is not an extenuating circumstance. Extenuating circumstances may exist when, for example:

- (a) The requester requires a custom-made chair, and it takes longer than 45 days to have the chair ordered, made, and shipped;
- (b) A device is needed that connects to the Agency's computer network, and the device must be screened through IT security;
- (c) The request requires shipment abroad to remote locations; or
- (d) The request requires the Agency to enter into a contract with a service provider.

9.6 Tracking Requests that are Approved Well in Advance of the Date the Accommodation Needs to Be Provided

In some cases, the approval of a request may come significantly prior to the date the accommodation is provided. For example, an employee may request accommodation related to a conference they plan to attend that is scheduled for 6 months from the date that the request was approved. In such cases, in which the primary reason that it wasn't provided within the timeframe was that it wasn't needed within the time frame, the request will be considered "provided" within the timeframe for timeline tracking purposes so long as the request was provided by when the requestor needed it.

9.7 Stopping the Timeline until Medical Documentation is Received

If medical documentation is required by the Agency, the 45-business day processing period will stop when the Agency requests medical documentation from the requestor and will resume on the day that the documentation is received by OCR. The Agency will not be expected to adhere to the 45-day processing period if the requester or the requester's medical professional fails to provide the needed documentation in a timely manner. However, even if an individual submits their requested medical documentation after the 45-day time limit has expired, the Peace Corps is still expected to process the request as expeditiously as possible when ultimately received.

10.0 Cost

When cost is being considered as a reason as to whether an accommodation can be provided, all resources available to the Agency as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation, must be considered when determining whether a denial of reasonable accommodation based on cost is lawful.

Decision makers should contact OCR to ensure they know what Agency resources are available to provide the accommodations, as the most common accommodation requests are funded in a centralized manner to ensure that the cost does not have to come from a supervisor's budget. If an accommodation is requested that does not already have a centralized funding source, OCR will seek one if the office wishes so that the accommodation does not need to come out of the supervisor's budget. See 12.0 "Processes and Funding for Common Requests" for further details on how some of the most common accommodations are funded.

11.0 Confidentiality

All information regarding a requestor's reasonable accommodation request that the Peace Corps obtains in connection with a request, including medical information and the fact that an employee is receiving, has requested, or was denied an accommodation, must be kept confidential and shared only on a strict "need-to-know" basis. Any Peace Corps employee who obtains or receives such information during the course of processing the request is strictly bound by these confidentiality requirements. Medical records shall not be placed in an employee's personnel file.

The following are examples of instances in which the information may need to be shared:

- (a) Supervisors and managers may be informed about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s);
- (b) Decision makers may need information regarding the medical documentation in order to consider the request, including determining if there is an alternative accommodation that is available that could meet the employee's needs;
- (c) First aid and safety personnel may be informed if the disability might require emergency treatment;
- (d) Individuals who are tasked with installing or managing assistive technology and devices may need to know that it is related to an accommodation request so that they can expedite installation and appropriately address the employee's needs;
- (e) Government officials may be given information necessary to investigate the Agency's compliance with the Rehabilitation Act;
- (f) The information may in certain circumstances be disclosed to workers' compensation offices or insurance carriers; and

- (g) Agency EEO officials may be given the information to maintain records and evaluate and report on the Agency's performance in processing reasonable accommodation requests.

12.0 Processes and Funding for Common Requests

The Agency is encouraged to establish guidelines for common accommodation requests. Additionally, because the Agency has centralized funding for the most common accommodation requests, supervisors should refer to the below information to know where funding for such requests will come from. Where such guidelines and centralized funding sources have been established, they are listed below.

12.1 Sign Language Interpretation

Requests for sign language interpretation should be made or referred to OCR. Individuals requesting sign language interpretation should fill out the MS 653 Attachment H – American Sign Language Request Form in Appendix IV and email the form to ASLRequest@peacecorps.gov. To best ensure the availability of interpreters at the requested time, requests for sign language interpretation should be made with at least 14 days advanced notice. Requests made with less notice will be filled on an as-available basis. OCR will fill the request through a vendor or through the Agency's staff interpreter. Funding for sign language interpretation for domestic employees is provided through OCR's budget.

12.2 Captioning

Requests for captioning services, including in-person and remote real time captions as well as captions for pre-recorded media content should be made or referred to OCR. Individuals requesting captions should fill out the MS 653 Attachment I – Captioning Request Form in Appendix V and email the form to ASLRequest@peacecorps.gov. Requests for in-person or remote real time captions should be made with at least 14 days advanced notice, requests made with less notice will be filled on an as available basis. Requests for captioning of media files will take between one to three weeks depending on the length of the media file and vendor availability. Funding for captions is provided through OCR's budget, unless the captioning request is for a product created by Communications, in which case Communications will caption their own content.

12.3 Parking

Requests regarding parking should be made or referred to OCR, which will coordinate the request with Administrative Services. OCR will request medical documentation from the requestor to establish the need for the request in accordance with requirements established by Administrative Services. Once sufficient medical documentation is submitted, OCR will relay that to Administrative Services, which will then decide whether or not the request can be provided.

12.4 Reassignment

Requests for reassignment within the Agency should be made or referred to OCR, which will coordinate the request with the Agency's Office of Human Resources (HR) and other relevant stakeholders. Reassignment is to be a last resort accommodation, and an employee with a disability is not required to accept a reassignment if an accommodation would allow them to continue working in their current position. If no reasonable accommodation can be provided by the Agency that will allow the employee to perform the essential functions of their job, reassignment must be offered to the requestor as an alternative accommodation before a denial of their request is issued. Termination is considered as an option only if there is no open position for reassignment at an equal or lower level of pay.

(a) During the search for reassignment, communication between the individual with a disability and the official conducting the search is essential. The communication should determine:

- (1) Whether there are limits on the search the employee would like the Agency to conduct;
- (2) Whether the employee is qualified for a particular job;
- (3) Whether the employee would need a reasonable accommodation to perform the essential functions of a new position;
- (4) Whether the employee is willing to be reassigned outside the facility or outside the commuting area, and if so, to what locations;
- (5) Whether the employee is willing to be reassigned to a different type of position for which they may be qualified, and if so which type(s); and
- (6) Whether the employee is willing, if no position is available at their current grade level, to be reassigned to a lower-grade position, and if so, down to what grade.

(b) In considering whether there are positions available for reassignment:

- (1) the employee's supervisor will work with HR and the individual requesting the accommodation to identify:
 - (i) All vacant positions within the Agency for which the employee may be qualified, with or without reasonable accommodation; and
 - (ii) All positions which HR has reason to believe will become vacant over the next 60 business days and for which the employee may be qualified.
- (2) HR will first search for positions that are equivalent to or better than the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent or better position, HR will consider vacant lower level positions for which the individual is qualified.

12.5 Devices that Plug into the Agency's Computer Network

Requests for devices that plug into the Agency's computer network, such as computer software or hardware, should be made or referred to OCR, which will coordinate the request with the Agency's Office of the Chief Information Officer (OCIO). OCR will request medical documentation from the requestor. OCIO will determine whether or not such requests can be provided or not, based on architecture, security, and support review processes, and will provide information on alternatives. When a device can be provided, funding for the device will come from OCIO's budget and OCIO will purchase and manage the device.

12.6 Removal of an Architectural Barrier, Workspace Reconfiguration, or Furnishings

Requests for the removal of an architectural barrier, a workspace reconfiguration, or furnishings, such as chairs, desks, lighting, and keyboard trays, should be made or referred to OCR, which will coordinate the request with Administrative Services. OCR will request medical documentation from the requestor. Once sufficient medical documentation is submitted, OCR will relay that to Administrative Services, which will then decide whether or not the request can be provided.

13.0 Tracking of Requests

13.1 Status Updates on Individual Requests

Requestors who wish to track the processing of their reasonable accommodation request may contact OCR at ocr@peacecorps.gov to request a status update.

13.2 Agency records of requests

All records regarding tracking reasonable accommodation requests will be kept confidential and shared only on a need to know basis or as required by law. Records will be kept separate from all personnel files. Records will be used for reporting purposes and to track the Agency's performance with regard to reasonable accommodation and affirmative hiring. OCR will track, at a minimum, the following information:

- (a) The specific reasonable accommodation requested, if any;
- (b) 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;
- (c) Whether the accommodation request was granted (which may include an accommodation different from the one requested) or denied or withdrawn;
- (d) the jobs (occupational series, grade level, and Agency component) sought by the requesting applicant or held by the requesting employee;
- (e) the identity of the deciding official;
- (f) If denied the basis for such denial; and

- (g) The number of days to process (resolve) the request.

14.0 Requests for Personal Assistance Services

In addition to reasonable accommodations required by law, the Agency must provide personal assistance services to employees with targeted disabilities during work hours and job-related travel if:

- (a) The employee requires such services because of a targeted disability;
- (b) Provision of such services would, together with any required reasonable accommodations, enable the employee to perform the essential functions of his or her position; and
- (c) Provision of such services would not impose an undue hardship on the Agency.

14.1 Personal Assistance Services

Personal assistance services required under Section 501 of the Rehabilitation Act must be performed by a personal assistance service provider. Personal assistance services may be provided by the same provider to more than one individual.

When selecting someone who will provide personal assistance services to a single individual, the Agency shall give primary consideration to the individuals' preferences to the extent permitted by law.

Personal assistance service providers may be required to perform tasks unrelated to the personal assistance service, but only to the extent that doing so does not result in failure to provide personal assistance services required in a timely manner.

14.2 No Adverse Action

The Agency may not take adverse actions against job applicants or employees based on their need for, or perceived need for, personal assistance services.

14.3 Process for Requesting Personal Assistance Services

The process for determining whether such services are required, and the Agency's right to deny such requests when provision of the services would pose an undue hardship, is the same as for reasonable accommodations, as described in this Attachment.

15.0 Distribution and Format

These procedures must be made available to all employees and applicants for employment upon issuance. The document will be found on the Peace Corps' Intranet and public facing webpage in written and accessible formats, and a link to the procedures will be made available to all new

employees as part of their orientation to the Agency. Hardcopy versions are available by contacting OCR.

These procedures and included forms are available in alternative formats to employees who need them due to a disability. Contact OCR to request this information in an alternative format.

16.0 Collective Bargaining

Bargaining representatives have a right to bargain over their reasonable accommodation procedures to the extent required by law.

17.0 Resources

The below resources can be consulted for further information on reasonable accommodations:

- (a) **The Peace Corps**
Office of Civil Rights
1275 First St. NE
Washington DC, 20526
OCR@peacecorps.gov

- (b) **Equal Employment Opportunity Commission**

<http://www.eeoc.gov/>

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA, including both the statute, 42 U.S.C. § 12101 et seq., and the regulations, 29 C.F.R. § 1630. In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The three main sources of interpretive information are: (1) the Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. §§ 1630.2(o), (p), 1630.9; (2) Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, 8 FEP Manual 405:7601 (1999); and (3) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992) (Technical Assistance Manual). The Technical Assistance Manual includes a 200-page Resource Directory, including federal and state agencies, and disability organizations that can provide assistance in identifying and locating reasonable accommodations.

The EEOC also has discussed issues involving reasonable accommodation in the following guidance and documents: (1) Enforcement Guidance: Pre-employment Disability-Related Questions and Medical Examinations <http://www.eeoc.gov/policy/docs/preemp.>; (2) Enforcement Guidance: Workers' Compensation and the ADA <http://www.eeoc.gov/policy/docs/workcomp.html>; (3)

Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities <http://www.eeoc.gov/policy/docs/psych.html> ; (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 <http://www.eeoc.gov/policy/docs/fmlaada.html> ; (5) Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>; and (6) Revised Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act *October, 2002* <http://www.eeoc.gov/policy/docs/accommodation.html>

All of the above-listed documents, with the exception of the Technical Assistance Manual and the poster, are also available through the Internet at www.eeoc.gov. All of these documents provide guidance that applies to federal agencies through the Rehabilitation Act of 1973, 29 U.S.C. § 791.

(c) Job Accommodation Network (JAN)

<http://askjan.org>

- (1) 1-800-526-7234 (Voice)
- (2) 1-877-781-9403 (TTY)

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

(d) ADA Disability and Business Technical Assistance Centers (DBTACs)

<http://www.adata.org>

- (1) 1-800-949-4232 (Voice/TT)

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.

(e) RESNA Technical Assistance Project

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

- (1) (703) 524-6686 (Voice)
- (2) (703) 524-6639 (TT)

- (3) 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.

Services may include:

- (i) 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);
- (ii) centers where individuals can try out devices and equipment;
- (iii) assistance in obtaining funding for and repairing devices; and
- (iv) equipment exchange and recycling programs.

APPENDICES

- (a) MS 653 Attachment E – *Reasonable Accommodation Request Form* (**APPENDIX I**)
- (b) MS 653 Attachment F – *Resolution of Reasonable Accommodation Request Form* (**APPENDIX II**)
- (c) MS 653 Attachment G – *Medical Documentation Form* (**APPENDIX III**)
- (d) MS 653 Attachment H – *American Sign Language Interpreting Request Form* (**APPENDIX IV**)
- (e) MS 653 Attachment I – *Captioning Request Form* (**APPENDIX V**)