



DEFENSE NUCLEAR FACILITIES SAFETY BOARD Washington, D.C. 20004

# OPERATING PROCEDURE

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**Subject: REASONABLE ACCOMMODATION PROGRAM**

<b>Number: OP-112.1-1</b>	<b>Approved: 06/20/2020</b>	<b>Review: 08/20/2023</b>	<b>Certified:</b>
<b>Number: OP-112.1-1</b>	<b>Updated: 08/18/2020</b>	<b>Approved:</b>	<b>Certified:</b>
Responsible Office: Division of Human Resources, Office of the General Manager			

1. **REASON FOR ISSUE:** The purpose of this operating procedure is to update the Defense Nuclear Facility Safety Board's (DNFSB or Board) policy OP-112.1-1: *Reasonable Accommodation Program* operating procedure for providing reasonable accommodations to employees or applicants with disabilities, and Personal Assistance Services (PAS) in compliance with all applicable laws and regulations. This operating procedure also provides guidance for DNFSB supervisors and employees regarding the right and responsibilities of DNFSB in processing request for reasonable accommodation and PAS.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This Operating Procedure includes multiple revisions based on the expanded legal requirements of the Americans with Disabilities Act (ADA) Amendments Act (ADAAA) of 2008, regulations from the Equal Employment Opportunity Commission (EEOC), 29 CFR 1630, March 25, 2011, pages 16978-1707, the EEOC final rule which amends 29 CFR 1614.203 to clarify the affirmative action obligations addressed in Section 501 of the Rehabilitation Act of 1973, notwithstanding changes in non-discrimination. Revisions include the following:
  - A. Adding procedures, roles and responsibilities, processing of reasonable accommodation and PAS requests.
  - B. Designating timelines, processes, and general procedures for PAS request.
3. **CANCELLATION.** None.
4. **APPLICABILITY.** This operating procedure applies to all DNFSB employees and applicants for DNFSB employment.
5. **EXEMPTIONS.** None

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#### 6. REQUIREMENTS:

- A. In accordance with ADAAA, the definition of disability shall be construed broadly and the determination of whether an individual has a disability generally should not require extensive analysis.
- B. All medical information obtained or received in connection with the reasonable accommodation process, including the existence of a disability, must be kept confidential and stored in files separate from the individual's personnel file.

#### 7. PROCEDURES: Processing Requests for reasonable accommodation and PAS from employees and applicants with disabilities, reasonable accommodation process.

- A. Requesting Reasonable Accommodation. A request for reasonable accommodation is any statement that an individual needs an adjustment or change at work or in the employment application process for a reason related to a medical condition. An individual may request accommodation whenever he or she chooses to do so.

- i. Who May Make a Request?

- a. DNFSB employees;
- b. Applicants for employment with DNFSB; or
- c. A family member, health professional, or other authorized representative on behalf of an employee or applicant.

- ii. Submitting the Request.

- a. An employee's reasonable accommodation request shall be made to DNFSB's Disability Program Manager (DPM), his or her supervisor, office director, the general manager, or any member of the Division of Human Resources (DHR). For applicants, information about contacting the DPM will be included in the vacancy announcement and the letter of appointment.

If an employee makes a reasonable accommodation request to someone other than the DPM, that individual shall forward the request to the DPM *within two (2) business days*.

- b. When a third party requests accommodation on behalf of an applicant or employee, the DPM should, if possible, confirm with the employee or applicant that he or she wants the reasonable accommodation before proceeding. When the DPM is not able to

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confirm the request with the employee or applicant, the DPM will process the third party's request, if appropriate, and will consult directly with the individual needing the accommodation as soon as practicable.

- c. An employee needing a reasonable accommodation on a recurring basis, such as the assistance of a sign language interpreter, must submit only the initial request. However, the employee requesting accommodation must give appropriate advance notice each subsequent time the accommodation is needed. If the accommodation is needed on a regular basis (e.g., a weekly staff meeting), the DPM should ensure the employee's supervisor makes the appropriate arrangements without requiring a request in advance of each occasion.
- d. The DPM cannot refuse to process a reasonable accommodation request, and a reasonable accommodation may not be denied based on a belief that the accommodation should have been requested earlier (e.g., during the application process).

#### iii. Manner of Request.

Initial reasonable accommodation requests may be oral or in writing. The individual requesting accommodation does not need to use any special language, terminology, or have a specific accommodation in mind.

- a. Written requests should be made using the *Accommodation Request Form* located in Appendix A.
- b. Oral requests must be followed-up in writing. The DPM will provide the requestor with the *Accommodation Request Form* to confirm the request. The DPM shall complete the form if the requestor does not. Failure to complete the request form will not delay processing the reasonable accommodation request. (Note: The written follow-up request enables DNFSB to maintain accurate records regarding reasonable accommodation requests.)

#### iv. Supervisory Recognition of Reasonable Accommodation Requests. Please see the examples below that reflect the proper identification of a reasonable accommodation requests by a supervisor:

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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.

Example B: An employee tells his supervisor, “I need six weeks off to get treatment for a back problem.” This request for leave is a request for a reasonable accommodation.

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.

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.

While an individual with a disability may request a change due to a medical condition, this request does not necessarily mean that the employer is required to provide the change. A request for reasonable accommodation is the first step in an informal, interactive process between the individual and the employer. In some instances, before addressing the merits of the accommodation request, the employer needs to determine if the individual’s medical condition meets the ADA definition of “disability,” a prerequisite for the individual to be entitled to a reasonable accommodation.

v. Role of DPM.

Once an employee or applicant for employment makes a reasonable accommodation request, the DPM is responsible for processing the request. The DPM will contact the employee or applicant within five business days after the oral or written request is made (even if the request is initially made to someone else) to begin the interactive process.

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vi. Interactive Process.

- a. The DPM begins the interactive process by discussing with the employee or applicant what, if any, accommodation should be provided. At a minimum, the discussion will include the following topics:
- The accommodation process and time frames for determining whether an accommodation will be provided;
  - The nature and extent of the individual's impairment;
  - How a disability is prompting the need for accommodation; and
  - The potential accommodations that may be effective in meeting the employee or applicant's needs. (See Appendix B for suggested resources for identifying accommodations.)

The employer's current supervisor, office director, and the chief information officer, who may have information relevant to providing assistance in considering and implementing different types of accommodations, should also be included in the interactive process where appropriate. Confidential medical information may only be disclosed to those individuals when (a) they properly store such information in separate files, in paper format, apart from employee's personnel file; (b) need to know this information; and (c) re-disclose this information only to others who have a "need to know" about necessary restrictions on the work or duties of the employee and about the necessary accommodation.

- b. In some instances, the DPM may need to gather additional information to determine if the individual making the request is a qualified individual with a disability. In making such a determination, the DPM may consult with the Office of General Counsel (OGC).
- c. An in-depth discussion may not be necessary if an effective accommodation is obvious, if the disability is obvious (e.g., the requestor is blind or has paraplegia), or if the disability is already known to DNFSB (e.g., the requestor previously asked for an accommodation and information submitted at that time showed a disability existed and that there would likely be no change in the individual's medical condition).

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- B. Requests for Medical Information.
- i. If a requestor's disability and/or need for accommodation is not obvious or already known, the DPM shall request and receive medical information showing the requestor has a disability that requires accommodation.
  - ii. It is the responsibility of the requestor to provide appropriate medical information requested by the DPM. Under the Rehabilitation Act, the DPM may not request documentation where: (a) the disability and the need for accommodation is obvious or (b) where the individual has already provided the agency with sufficient information to document the existence of the disability and/or functional limitations.
  - iii. Medical documentation is sufficient if it: (1) describes the nature, severity, and duration of the individual's physical or mental impairment; the activity or activities the impairment limits; the extent to which the impairment limits the individual's ability to perform the activity or activities; and/or (2) substantiates why the requested reasonable accommodation is needed.
  - iv. The DPM may require that all medical information be reviewed by a doctor of DNFSB's choosing, at DNFSB's expense.
  - v. If the initial information provided by the requestor or health care provider(s) is insufficient to enable the DPM to determine whether the requestor has a disability and/or that an accommodation is needed, the DPM will explain to the requestor what additional information is needed. The requestor should then ask his or her health care provider(s) to provide the missing information. The DPM may also give the requestor a list of questions for the health care provider(s) to answer.
  - vi. After providing a reasonable period of time to submit missing information or supplement inadequate medical documentation, the DPM may deny a reasonable accommodation request. The DPM should consult OGC prior to denying a reasonable accommodation request to ensure that DNFSB's decision is in conformance with the Rehabilitation Act.
  - vii. A supervisor or office director who believes an employee may no longer require a reasonable accommodation should contact the DPM. The DPM will decide if there is a reason to contact the employee to discuss whether he or she has a continuing need for reasonable accommodation.

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- C. Confidentiality. The DPM may share certain information with an employee's supervisor or other DNFSB official(s) as necessary to make appropriate determinations on a reasonable accommodation request. Under these circumstances, the DPM will inform the supervisors/officials about the confidentiality requirements. The information disclosed by the DPM will be no more than is necessary to process the request. Additionally, other disclosures of information are permitted as follows:
- i. Supervisors and managers are entitled to information necessary to implement necessary restrictions on the work or duties of the employee or to provide necessary accommodation(s);
  - ii. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or assistance in evacuation;
  - iii. Government officials may be given information necessary to investigate DNFSB's compliance with the Rehabilitation Act;
  - iv. Workers' compensation offices or insurance carriers may, in certain circumstances, be given access to the information;
  - v. DNFSB equal employment opportunity (EEO) officials may be given the information to maintain records and evaluate and report on DNFSB's performance in processing reasonable accommodation requests; and
  - vi. Health care providers may be given medical records and reasonable accommodation requests to assist DNFSB in processing such requests.
- D. Time Frame for Processing Requests and Providing Reasonable Accommodation.
- i. General Rule.
    - a. The time frame for processing a request (including providing accommodation, if approved) is as soon as possible but no later than 30 business days from the date the request is made. This 30-day period includes the five-day time frame in which the DPM must contact the requestor after a request for reasonable accommodation is made.
- NOTE: The time frame begins when an oral or written request for reasonable accommodation is made, and not necessarily when it is received by the DPM.

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- b. If the DPM must request medical information or documentation from a requestor's doctor, the time frame will stop on the day the DPM makes a request to the individual to obtain medical information or sends out a request for information/documentation, and will resume on the day that the information/documentation is received by the DPM.
  - c. DNFSB will process requests and, where appropriate, provide accommodations in as short a period of time as is reasonably possible. Where a particular reasonable accommodation can be provided in less than 30 days, DNFSB will make every effort to do so. Unnecessary delays can result in a violation of the Rehabilitation Act. In determining whether there has been an unnecessary delay in responding to a request for reasonable accommodation, relevant factors would include: (1) the reason(s) for the delay; (2) the length of the delay; (3) how much the individual with a disability and DNFSB each contributed to the delay; (4) what DNFSB was doing during the delay; and (5) whether the required accommodation was simple or complex to provide.
- ii. Expedited Processing of a Request. In certain circumstances, a reasonable accommodation request requires an expedited review and decision. This includes where a reasonable accommodation is needed:
- a. To enable an applicant to apply for a job. Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a reasonable accommodation request to ensure that an applicant with a disability has an equal opportunity to apply for a job.
  - b. To enable an employee to attend a specific DNFSB activity that is scheduled to occur shortly. For example, an employee may need a sign language interpreter for a meeting scheduled to take place in five days.
- iii. Extending Time Frame in Extenuating Circumstances.
- a. When extenuating circumstances are present, the time for processing a reasonable accommodation request and providing the accommodation will be extended as reasonably necessary.



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- b. Extensions will be limited to circumstances where they are necessary and only for as long as required to resolve the extenuating circumstance. In such situations, DNFSB will notify the affected individual of the reason for the delay, as well as the expected date of completion. In the interim, DNFSB will investigate whether temporary measures exist that could assist the individual with a disability.
- c. Absent extenuating circumstances, the amount of time to provide the accommodation or deny the request will generally be 30 business days.
- d. An extenuating circumstance would be when all facts known to DNFSB make it reasonably likely that the individual will be entitled to an accommodation, but the accommodation cannot be provided immediately due to unforeseen or unavoidable events. For example, a certain software is not compatible or usable with government equipment. In those instances, DNFSB will provide the individual with an interim accommodation that allows the individual to perform some or all of the essential elements of the job absent undue hardship.

#### F. Resolution of the Reasonable Accommodation Request.

- i. All decisions regarding a reasonable accommodation request will be communicated to the employee or applicant in writing.
- ii. If the DPM grants the specific accommodation requested, the DPM will notify the requestor in writing that the accommodation has been approved (see *Approval of Reasonable Accommodation* form in Appendix A) and discuss implementation of the accommodation. The approval form must be completed even if DNFSB is granting the request without determining whether the requestor has a disability and regardless of what type of change or modification is approved.
- iii. The DPM will ensure the accommodation is properly implemented.
- iv. If the request is approved but the accommodation cannot be provided immediately, the DPM will inform the individual in writing of the projected time frame for providing the accommodation.
- v. The DPM should consult with OGC for legal guidance on a decision to deny ***a request for accommodation***. In addition, the DPM shall:

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- a. Explain, in writing, the reason(s) for the denial of the specific reasonable accommodation requested (e.g., the accommodation poses an undue hardship, is ineffective, or is not required by the Rehabilitation Act) on the date DNFSB denied the request.
- b. Explore with the individual whether another accommodation would be possible. The fact that one accommodation proves ineffective or would cause undue hardship does not necessarily mean this would be true of another accommodation.
- c. When offering an accommodation other than the one requested, but the alternative accommodation is not accepted, record the individual's rejection of the alternative accommodation for the record.

A decision to provide an accommodation other than the one specifically requested will be considered a decision to deny an accommodation.

- d. Explain, in writing, the reason(s) for denying the original request and why DNFSB believes an alternate accommodation will be equally effective, as well as the right to file an EEO complaint and notify the individual that he or she has the right to file an EEO complaint within 45 days of the denial (Section I below) and/or invoke DNFSB's informal dispute resolution process (Section G below) and/or other statutory processes.

#### vi. Reassignment.

- a. Reassignment will be considered as an accommodation only if no other accommodations are available to enable the individual to perform the essential functions of his or her current job, or if the only effective accommodation would cause undue hardship to DNFSB.
- b. Reassignment is available only to current DNFSB employees, not to applicants.
- c. DNFSB may only make reassignments to vacant positions. DNFSB need not create a new vacancy in order to facilitate reassignment of an employee. Reassignment does not require the individual to reapply for that particular position.

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- d. In considering whether positions are available for reassignment, the DPM will work with the director of human resources (DHR) and the affected employee to identify: (1) the limits on the search the employee would like DNFSB to conduct; (2) vacant positions within DNFSB for which the employee may be qualified, with or without reasonable accommodation; and (3) positions which the DHR has reason to believe will become vacant within 60 days from the date the search is initiated and for which the employee may be qualified.
- e. Reassignment may be made to a vacant position outside of the employee's commuting area if the employee is willing to relocate. DNFSB will not pay for the employee's relocation costs.

#### G. Informal Dispute Resolution.

- i. An individual who is denied a reasonable accommodation may ask the DHR to reconsider that decision. An individual must request reconsideration in writing within 10 business days of receiving the resolution form.
- ii. The DHR will provide a written response to the request for reconsideration within five business days of receiving the request.
- iii. A request for reconsideration is voluntary and will not extend the time limits for filing an EEO complaint or for initiating other administrative or statutory claims.

#### H. Information Tracking and Reporting.

- i. In order for DNFSB to ensure compliance with the Rehabilitation Act and this operating procedure, the DPM will prepare quarterly reports on reasonable accommodation activity. The report is to be submitted to the DHR and general manager by the last day of the calendar quarter (e.g., March 31, June 30, September 30, and December 31).
  - ii. The DPM shall also provide an annual report of DNFSB's reasonable accommodation activity to the general manager within 30 calendar days of the end of the fiscal year for which the report is made.
- I. The reports will track the following for each Rehabilitation Act request: (1) the specific Rehabilitation Act request; (2) the job sought by requesting applicant or held by requesting employee; (3) whether the accommodation was needed to apply for a job or enjoy the benefits of employment; (4) whether the request was granted or denied; and (5) the identification of the deciding official.

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- J. Relation of Reasonable Accommodation Procedures to Statutory Claims.
- i. An individual who chooses to pursue statutory remedies for denial of reasonable accommodation must:
    - a. For an EEO complaint: Contact a DNFSB EEO counselor within 45 calendar days from the date of receipt of the written resolution notice or a verbal response to the request (whichever comes first). An individual who alleges that DNFSB has unreasonably delayed making a decision on a request for reasonable accommodation may contact an EEO counselor prior to receiving a written or verbal notification of a decision from DNFSB.
    - b. For actions over which the Merit Systems Protection Board (MSPB) has jurisdiction: Initiate an appeal to MSPB within 30 calendar days of the appealable adverse action as defined in 5 Code of Federal Regulations (CFR) § 1201.3.
  - ii. This operating procedure creates no new enforceable rights under Section 501 of the Rehabilitation Act or any other law.
- K. Processing Assistance Services

Under Section 501 of the Rehabilitation Act of 1973, DNFSB is required to provide Personal Assistant Service (PAS) as a form of affirmative action. PAS provides employees with targeted disabilities assistance with performing activities of daily living that an individual would typically perform if they did not have a disability, and that is not otherwise required as a reasonable accommodation, including, for example, assistance with removing and putting on clothing, eating, and using the restroom. PAS must be performed by a personal assistance service provider. Also, PAS must be provided to employees who need them when they telework under DNFSB's telework policy or telework as a reasonable accommodation.

Processing Assistance Services also must be provided when needed because of job-related travel. An employee receiving PAS in the office or while teleworking must still request PAS for job-related travel. DNFSB will not necessarily know that PAS is required for travel simply because an employee regularly receives PAS while at the worksite or while teleworking. It is also possible that an employee may require different PAS for travel than usually required. Since PAS for job-related travel are also considered a form of reasonable accommodation, requests for these services will be handled as requests for reasonable accommodation.

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Employees do not need to determine if they need a reasonable accommodation or PAS. Employees should simply contact the DPM and explain what they need. The DPM will determine whether the request is for reasonable accommodation or PAS and proceed accordingly.

- i. DNFSB must provide PAS if:
  - a. An employee requires them because of a “targeted disability.” A list of targeted disabilities can be found at:  
[https://www.opm.gov/Forms/pdf\\_fill/sf256.pdf](https://www.opm.gov/Forms/pdf_fill/sf256.pdf) .
  - b. Provision of these services would, together with any reasonable accommodations, enable an employee to perform the essential functions of a position the individual holds or desires;
  - c. Provision of such services would not impose an undue hardship on DNFSB.

- ii. DNFSB may only deny a request for PAS:

If the difficulty of providing the service would be an undue hardship. The process of determining whether providing PAS is an undue hardship is the same process DNFSB uses to determine whether a reasonable accommodation poses an undue hardship. For this and other reasons (e.g., confidentiality, timeliness of responses), requests for PAS will be centrally recorded in DNFSB’s system of records for reasonable accommodation. It is important to note that under Section 501 of The Rehabilitation Act of 1973, DNFSB is prohibited from taking adverse actions against job applicants or employees based on the need, or perceived need, for PAS.

- iii. The following items are unique to PAS:
  - a. Services that will not include medical services such as medication delivery, wound care, or any other medical service by an assigned contractor are non-medical.
  - b. DNFSB will work with employees needing PAS to ensure that primary consideration is given to the employee's preferences for assigned contractors.

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- c. Employees may request to bring their own PAS provider into the workplace. In such situations, the employee should work with the DPM to ensure that all security requirements are met to allow the preferred PAS provider to accompany the employee into the workplace.
      - iv. If PAS is not available, the supervisor must consult with the DPM and the employee to determine if other options are available to provide the necessary support.
- 8. **RESPONSIBILITIES.** Roles and responsibilities regarding reasonable accommodation and personal assistance services.
  - A. General Manager. Designates an employee of DHR as the DPM.
  - B. Disability Program Manager.
    - i. Processes and resolves employee and applicant requests for reasonable accommodation and PAS;
    - ii. Informs an employee's supervisor or, as appropriate, office director, before providing reasonable accommodation or PAS involving performance of the job;
    - iii. Oversees information tracking and managing all records related to reasonable accommodation and personal assistance services requests;
    - iv. Provides ongoing assessment of DNFSB's reasonable accommodation and personal assistance program;
    - v. Obtains medical documentation when required to process a reasonable accommodation and PAS request; and
    - vi. Ensures the confidentiality of medical information received in accordance with applicable laws and regulations.
  - C. Director of Human Resources (DHR).
    - i. Designates another staff member from DHR to act as an alternate for the DPM to process requests when the DPM is unavailable for any length of time (e.g., the DPM is on vacation or out on extended leave);

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- ii. Ensures DNFSB's job opportunity announcements (JOA) and letters of appointment contain information on how to contact the DPM to request reasonable accommodation;
- iii. Consults with the DPM in locating vacant DNFSB positions available for reassignment to qualified, disabled employees; and
- iv. Reviews and processes requests for reconsideration of reasonable accommodation or PAS denials.

#### **D. Supervisors.**

- i. Forward requests for reasonable accommodation and PAS to the DPM within two business days of receipt;
- ii. To the extent necessary, coordinate with the DPM to expeditiously process reasonable accommodation and PAS requests; and
- iii. Contact the DPM when they believe their employees may no longer require an accommodation or PAS.

#### **E. Applicants and Employees Must:**

- i. Request a reasonable accommodation and PAS in accordance with the requirements of this operating procedure; and
- ii. Provide documentation related to their disabilities when the disabilities and/or needs for accommodation and PAS is not obvious.

## **9. CONTROLS AND MEASURES.**

- A. Any employee seeking further information concerning a reasonable accommodation or PAS may contact the DPM or the DHR;
- B. All JOAs and letters of appointment shall identify DNFSB's DPM and provide his or her contact information;
- C. This operating procedure shall be posted on DNFSB's intranet and distributed to all new employees as part of their orientation; and
- D. In addition to meeting any reporting responsibilities required by regulation, the DPM shall provide an annual report of DNFSB's reasonable accommodation

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activity to the General Manager and EEO Director within 30 calendar days of the end of the fiscal year for which the report is made.

#### 10. RECORDS.

- A. DHR will maintain all reasonable accommodation and PAS documentation within the Office of the General Manager.
- B. DHR will maintain medical information in files separate from personnel records and will treat them as confidential records.
- C. DHR will retain all records related to a particular individual who has requested a reasonable accommodation or PAS for either three years after his/her separation from DNFSB or for three years after all appeals are concluded, whichever comes later. These records include any documentation of the individual's disability or need for reasonable accommodation and PAS, information about the disposition of that individual's accommodation and PAS request, as well as general files, supplemental files, and records used to track DNFSB's performance and compliance with regard to reasonable accommodation.

#### 11. REFERENCES.

- A. The Rehabilitation Act of 1973, as amended, codified at 29 United States Code (USC) § 701 *et seq.*
- B. The Americans with Disabilities Act of 1990, as amended, codified at 42 USC § 12101 *et seq.*
- C. Executive Order 13164, *Establishing Procedures to Facilitate the Provision of Reasonable Accommodation*, dated July 26, 2000.
- D. 29 CFR Part 1630, *Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act.*
- E. EEOC Policy Guidance on Executive Order 13164: *Establishing Procedures to Facilitate the Provision of Reasonable Accommodation*, dated October 20, 2000.



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#### 12. DEFINITIONS.

- A. Disability. A physical or mental impairment that substantially limits one or more of the major life activities of an individual or a record of such an impairment; or being regarded as having a physical or mental impairment<sup>1</sup> that substantially limits one or more of the major life activities of such individual.
- B. Essential Functions. Job duties that are so fundamental to the position that an individual cannot do the job without being able to perform them. A function can be “essential” if, among other things:
- i. the position exists specifically to perform that function;
  - ii. there are a limited number of employees who could perform the function if it were assigned to them; or
  - iii. the function is so specialized and the incumbent is hired based on his/her ability to perform it.
- C. Extenuating Circumstance. A circumstance that could not reasonably have been anticipated or avoided in advance of the request for accommodation, or that is beyond DNFSB’s ability to control.
- D. Job Opportunity Announcement. A document informing potential applicants of a vacancy. JOAs describe the requirements of the job and instruct applicants how to apply for the vacancy. Whenever applications are accepted from sources outside of DNFSB, a JOA must be posted on the USAJOBS’ website to satisfy public notice requirements.
- E. Major Life Activities. Major life activities include, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. It also includes the operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

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<sup>1</sup> DNFSB is not required to provide a reasonable accommodation to an individual who only meets the definition of disability under the “regarded as” prong.

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- F. Physical or Mental Impairment.
- i. *Physical Impairment.* Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine.
  - ii. *Mental Impairment.* Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- G. Qualified Individual with a Disability. An individual who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.
- H. Reasonable Accommodation. A change in the work environment or in the way things are customarily done that would enable an individual with a disability to enjoy equal employment opportunities. There are three categories of reasonable accommodation.
- i. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires;
  - ii. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
  - iii. Modifications or adjustments that enable employees with a disability to enjoy equal benefits and privileges of employment.
- I. Reasonable Accommodation Request. Any communication in which an individual asks or states that he or she needs DNFSB to make adjustments because of a disability. A request may be in “plain English,” and need not include the words “reasonable accommodation,” “disability,” or “Rehabilitation Act.”
- J. Substantially Limits. The inability of an individual to perform a major life activity that most people in the general population can perform; or being significantly restricted as to the condition, manner, or duration under which an individual can

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perform a particular major life activity as compared to the condition, manner, or duration under which most people in the general population can perform that same major life activity. Consistent with EEOC regulations found at 29 CFR, Part 1630, the term “substantially limits” shall be construed broadly in favor of expansive coverage.

- K. Personal Assistance Services: PAS are provided to individuals with targeted disabilities to allow them to perform basic activities of daily living to include eating and using the restroom. Effective January 3, 2018, federal agencies are required to provide PAS through affirmative action, unless doing so would impose an undue hardship on the agency. The description, processes, resources, and timelines required are contained within this operating procedure.
  - L. Undue Hardship. Exists when providing a reasonable accommodation would impose significant difficulty or expense on DNFSB, considering factors such as the nature and cost of the accommodation needed and the impact of the accommodation on the operations of DNFSB.
13. CONTACT. Address questions concerning this operating procedure to the General Manager.

*Glenn Sklar, 8/20/20*

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Glenn Sklar, General Manager

**REASONABLE ACCOMMODATION PROGRAM**  
**APPENDIX A**

**REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE PROGRAM**  
**MANAGEMENT**

**1. Service Types**

- A. The DPM (DPM) manages reasonable accommodation and personal assistance program (PAS) requests and coordinates services for all service types. Once the DPM determines that an employee is a qualified individual with a disability, the employee and supervisor should work directly with the DPM charged with coordinating the program to ensure the needs of the employee and program are met.
- B. The DPM provides support in obtaining the following services as approved reasonable accommodation and/or PAS.
- C. Available services include:
  - i. Sign Language Interpreting: Support provided to individuals who are deaf or hard of hearing.
  - ii. Workplace Assistance: Administrative support such as notetaking, escorts, and readers.
  - iii. Personal Assistance: Support for activities of daily living such as eating, dressing/undressing, and transferring.
- D. Initiating Services. The DPM will meet with each employee to discuss functional limits and the scope of services which will be provided based on individualized needs. Approved services will be documented for DNFSB's records.

**2. Employee Preference**

DNFSB uses vendor-assigned contractors for all Disability Services Program (DSP) service types. Accordingly, DNFSB cannot guarantee that any employee will be serviced by the same contractor on a regular or on-going basis. To ensure that employees are consistently provided services, the DPM will work with the employee to develop a profile of needs and preferences. The DPM will also work with the employee to develop and maintain additional documentation, as needed. This may include, but is not limited to, a glossary of standard terms, inventory of specialized equipment, and instructions for the use of or assistance with specialized equipment. Any such profiles and documents will be provided to contractors before they begin working with an employee.

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It is important to note that, due to the nature of the services provided, the DPM will work with employees needing PAS to ensure that primary consideration is afforded regarding the employee's preferences for assigned contractors.

#### 3. Scheduling Services

- A. The employee and/or the supervisor should contact the DPM directly to request and schedule the following services:
  - i. Sign Language Interpreting;
  - ii. Workplace Assistance; and
  - iii. Personal Assistance.
- B. Advance scheduling—preferably one to two weeks—is strongly encouraged. Although it is not possible to foresee every occasion for which services may be required, failure to schedule services in advance may result in the necessity to reschedule meetings until services are available. Any DSP request received with less than 72 hours' notice is not guaranteed.
- C. Several factors influence the scheduling of services. For example, any sign language interpreting assignment that continues for longer than 1.5 hours, or is heavily technical, may require two interpreters. Similarly, back-to-back meetings, or meetings extended past the scheduled time, may result in limited or no transfer time for a service provider to move between assignments or no time for appropriate breaks. Accordingly, meetings or events should include sufficient rest periods and breaks to ensure the proper provision of services.
- D. Requests for services are scheduled on a first-come, first-served basis. The DPM may suggest other alternatives if overlapping or conflicting requests occur. Similarly, the DPM may suggest other alternatives when a program is filled, and/or meetings cannot be rescheduled. However, to avoid such conflicts, all clients will be requested to share their calendars with the DPM.
- E. It is important to note that services are not to be provided in place of employee attendance. Contractors will not be scheduled for meetings when an employee is on leave or when the employee is otherwise unavailable.

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#### **4. Meeting Extensions**

Employees must follow the schedule of services carefully to ensure the assigned contractor is not asked to work outside of the approved schedule. Failure to do so would obligate DNFSB to an unauthorized expenditure of government funds. If a meeting or event is extending beyond the approved service time, the employee must notify the DPM and request an extension. The DPM will determine whether the service can be extended. If the services can be extended, the DPM alone will provide instructions to the vendor/assigned contractor.

#### **5. Cancellations**

Employees and supervisors should provide advanced notice of cancellations whenever possible to the DPM. The DPM will determine cancellations due to inclement weather on a case by case basis.

#### **6. Off-site Services**

Services are available for off-site meetings when requested in advance. The employee and/or supervisor must specify that the services are needed off-site and the exact location of facilities at the time of the request. The DPM will then work with the vendor to coordinate services.

#### **7. Travel Services**

A. Services are available for employees on travel when requested in advance. The employee and supervisor must, at a minimum, specify that the services are required for travel, the exact travel location, and the specific duration of the travel itinerary at the time of the request. The request will only be submitted after the employee's travel request has been approved by her/his supervisor or other appropriate authority, with assurances that the employee's travel request is submitted in accordance with DNFSB's travel regulations. Requests for services submitted before obtaining these approvals will not be processed. Requests submitted in accordance with these requirements will be processed by the DPM, who will then work with the vendor to coordinate services.

B. Except for PAS, services provided during official travel are limited to assistance with job-related tasks when the employee is attending, for example, conferences, meetings, training, and including overnight stays. To provide services, DNFSB will pay the wages of a locally recruited contractor (i.e., a person resident in the location to which the employee is traveling). If a locally recruited contractor cannot be

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secured, DNFSB will pay the travel expenses for a vendor-assigned contractor to accompany the employee, if such a contractor is available.

- C. For PAS, all approved support will be made available for official travel. If the employee's travel needs are different from the employee's needs during the workday (i.e., bathing, dressing/undressing), the employee must specify the services needed to the DPM when making the request.

**8. Sign Language Interpreting (SLI) Specifications**

A. The following items are unique to SLI services:

- i. Vendor-assigned contractors must hold national interpreter certification and be certified members in good standing of the Registry of Interpreters for the Deaf (RID) and/or the National Association of the Deaf (NAD), and strictly adhere to the RID-NAD Code of Professional Conduct (CPC).
- ii. Internal training is provided to clients, supervisors, and teams to ensure that all parties understand how to work with deaf employees and effectively create an inclusive environment.
- iii. It is essential to keep in mind that, generally, one interpreter can work 45-60 minutes of consecutive interpreting (i.e., speakers taking turns speaking at a normal pace) before needing a 15-minute break.

B. There must be two interpreters for meetings over 1.5 hours long.

- i. Every effort should be made to include deaf or hard of hearing employees in all necessary intentions/exchanges/meetings. The lack of an available sign language interpreter should not result in the exclusion of a deaf or hard of hearing employee, in these situations an alternative mode of communication will be utilized.
- ii. Failure to schedule interpreting services may result in the use of alternative forms of interpreting (e.g., dialing 711 to access Fed Relay or similar).
- iii. If the employee attends a conference or training program sponsored by an outside organization, the sponsoring organization is principally responsible for providing interpreters. It is the responsibility of the employee and supervisor to check with the sponsoring organization to see if interpreting services will be available. If not, a request containing all relevant information should be submitted to the DNFSB DPM.

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#### **9. Workplace Assistant (WPA) Services Specifications**

Workplace Personal Assistance (WPA) Services include work task-related assistance, such as the use of a reader for business documents not otherwise available electronically, and/or a sign language interpreter for company meetings or trainings. The following items are unique to WPA services:

- A. Every effort should be made to include the employee using WPA in all necessary intentions/exchanges/meetings. Lack of an available WPA should not result in exclusion of the employee as an alternative form of support should be used.
- B. If WPA services are not available, the supervisor must determine whether to provide alternative assistance from among the members of her/his staff or to reschedule the meeting/event/training request for a later date when a WPA is available.



**APPENDIX B**

**EXAMPLES OF REASONABLE ACCOMMODATIONS AND PERSONAL ASSISTANCE SERVICES**

The types of actions that can be taken regarding reasonable accommodation and personal assistance services (PAS) can best be determined on a case-by-case basis, taking into consideration the employee, her/his specific disability and the resulting limitations, the essential duties of the job, the work environment, and the feasibility of the proposed accommodation. Reasonable accommodation may include, but is not limited to, the following:

1. **Modification of the Worksite Facilities:** Changes may include, but are not limited to, arranging files or shelves for accessibility; raising or lowering equipment and work surfaces to provide comfortable working heights; installing special holding devices on seats, desks, or machines; using Braille labels or other tactile cues for identification purposes; and installing special equipment such as telephone amplifiers.
2. **Assistive Devices:** DNFSB is authorized to purchase equipment or assistive devices if they are necessary to fulfill the official business of the agency. Equipment or assistive devices may not be provided if they are of a personal nature such as eyeglasses or hearing aids. In determining whether the purchase of equipment and assistive devices should be authorized, consideration should be given as to whether the device will enable the person with a disability to perform tasks, she/he would otherwise be unable to carry out. Consideration should also be given to determine whether a significant benefit would be an increase in the quantity, quality, or efficiency of the employee's work.
3. **Captioning:** The process of converting the audio portion of video production or live event into text displayed on a television or film screen or computer monitor. The captions are typically white upper-case against a black background and, when pre-recorded, presented live as the show is broadcasted. They may also be permanently visible (open-caption) or viewable only through a decoder (closed-caption) attached to or built into the television.
4. **Computer-Aided Real-time Translation (CART):** A form of captioning which provides a word-for-word transcription of what is being said. It may be read on a laptop computer or projected onto a television screen or, for a broad audience, onto a full-size screen.
5. **Flexible Leave Policies:** DNFSB has authority to adopt flexible leave policies, subject to appropriate laws and regulations, which will accommodate employees with disabilities.

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6. **Adjusting Work Schedules or Work Locations:** Managers and supervisors are encouraged to approve flexible or altered work schedules for employees who cannot meet the requirements of the regularly scheduled tour of duty for the position for reasons associated with their disability (examples include the provision for medical treatments, need for rest periods, or difficulty getting to work). Use of DNFSB's telework program is also encouraged when employees require the use of alternative work locations.
7. **Restructuring Jobs:** Job restructuring is the primary means by which an employee with a disability can be reasonably accommodated. Supervisors should consult with the DPM to discuss changes that can be made to enable the person with a disability to perform the job.
8. **Training:** DNFSB will accommodate and assume the costs incurred when an employee with a disability attends training. DNFSB will also arrange reasonable accommodation and PAS needs for approved courses, whether held at DNFSB or other locations, including the arrangement of transportation to and from the training site.
9. **Personal Care-Related:** PAS may include personal care-related assistance such as helping an employee to access the restroom, eat or drink at work, assistance with mobility devices, entering and existing facilities, or travel for business purposes.

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**APPENDIX C**

**REASONABLE ACCOMMODATION FORMS**

1. Accommodation Request Form
2. Approval of Reasonable Accommodation Request Form
3. Denial of Reasonable Accommodation Request Form

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD**  
**REASONABLE ACCOMMODATION REQUEST FORM**

**Full Name:** \_\_\_\_\_  
*Last First Middle Initial*

**Mailing Address:** \_\_\_\_\_  
*Street*

\_\_\_\_\_  
*City State Zip Code*

**Email Address:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Phone:** \_\_\_\_\_  
*Day Evening Cell*

**Office:** \_\_\_\_\_ **Supervisor:** \_\_\_\_\_

**1. Disability Claimed:**

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#### 2. How Disability Affects Your Major Life Activity/ies:

#### 3. Accommodation Requested *(describe specific accommodation or modification that you are requesting )*:

If your need for an accommodation is not obvious, you must provide documentation from an appropriate medical professional, such as a doctor, rehabilitation counselor, or vocational counselor, concerning your disability and functional limitations as they pertain to the requirements of your current position or the one for which you are applying. The DPM (DPM) will provide a medical consent form for you to sign if we need to contact your doctor for additional information

Your request will be processed and evaluated to determine the most appropriate reasonable accommodation for your claimed disability. However, this assistance does not necessarily signify a determination by the Defense Nuclear Facilities Safety Board (DNFSB) that you are a qualified individual with a disability under the Rehabilitation Act. You will be contacted via the e-mail or phone number you provide above.

Any documentation you submit will become part of your record of request for an accommodation, or part of your application package if you are an applicant for employment with DNFSB. Your identity

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and information pertinent to your request for accommodation may be revealed only to Federal officials with a need to know.

Your failure to provide the information requested may result in the inability of DNFSB to grant your request. E-mail the completed *Accommodation Request Form*, and as applicable, medical documentation, to the DPM at [dpm@dnfsb.gov](mailto:dpm@dnfsb.gov). If you are not using a DNFSB email address, please encrypt all documents submitted to the DPM mailbox and provide the DPM an access password in a separate e-mail. If you have questions about the documents or reasonable accommodation process, you may contact the DPM 202-694-7000.

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD**  
**APPROVAL OF REASONABLE ACCOMMODATION REQUEST**

**Date:**  
**Recipient Name:**  
**Title:**  
**Address:**

Dear \_\_\_\_\_:

After careful consideration of your request for a reasonable accommodation on (add date), I have determined that your request for (add request information) meets the criteria for a reasonable accommodation and is *approved*. This decision is based on my discussions with you, a review of your medical documentation (if provided), and consultation with your supervisor.

As your request has been approved, your supervisor and I will immediately arrange the specific accommodation you requested. If there are any delays in providing you this accommodation, you will be notified.

This approval letter completes the reasonable accommodation process and will become the final documentation within the file. If you have any questions about the reasonable accommodation process or this letter, please contact me at the number below.

Sincerely,

DPM Telephone #:

E-Mail Address:

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD**  
**DENIAL OF REASONABLE ACCOMMODATION REQUEST**

- 1. Name of employee requesting reasonable accommodation:**
  
- 2. Type(s) of reasonable accommodation requested:**
  
- 3. Request for reasonable accommodation denied because:** *(may check more than one box)*
  - Accommodation Ineffective
  - Accommodation Would Cause Undue Hardship
  - Medical Documentation Inadequate
  - Accommodation Would Require Removal of an Essential Job Function
  - Accommodation Would Require Lowering of Performance or Production Standard
  - Other (Please identify) \_\_\_\_\_
  
- 4. Detailed reason(s) for the denial of reasonable accommodation** *(Must be specific, e.g., why accommodation is ineffective or causes undue hardship):*
  
- 5. If the individual proposed one type of reasonable accommodation which was denied, but rejected an offer of an alternative type of accommodation, explain both the reasons for denial of the requested accommodation and why the offered accommodation would be effective.**



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**NOTICE TO INDIVIDUAL:**

**6. If you wish to request reconsideration of this decision, you may take the following steps:**

- First, ask the decision maker to reconsider his/her denial. You may present additional information to support your request.
- Use existing procedures for informal dispute resolution that can include any of the following processes: review by a second line supervisor or review by another neutral party.
- Reconsideration, review, and use of alternative resources do not affect the time limits for initiating statutory claims. An individual's participation in informal dispute resolution processes will neither satisfy nor delay time restrictions of the formal processes indicated below.

**7. If you wish to file an equal employment opportunity (EEO) complaint, or pursue Merit Systems Protection Board (MSPB) and grievance procedures, you must take the following steps:**

- For an equal employment opportunity (EEO) complaint pursuant to 29 Code of Federal Regulations (CFR) §§ 1614, contact the EEO counselor in the appropriate EEO office within 45 days from the date of denial of reasonable accommodation; or
- Where the denial of a request results in an adverse action, initiate an appeal to the Merit System Protection Board within 30 days of an appealable adverse action as defined in 5 CFR §§ 1201.3 et. seq.

**Name/Title of Decision Maker:**

**Signature of Decision Maker:**

**Date reasonable accommodation denied:**

I acknowledge that I have read the above information with regard to my request for accommodation.

**Signature of Requester:**

**Date:**

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**APPENDIX D**

**SELECTED REASONABLE ACCOMMODATION RESOURCES**

**U.S. Equal Employment Opportunity Commission (EEOC)**

1-800-669-3362 (Voice), 1-800-800-3302 (TT), [www.eeoc.gov](http://www.eeoc.gov)

EEOC has published many Americans with Disabilities Act (ADA) and Rehabilitation Act-related *documents* that may assist both individuals requesting accommodations as well as those involved in the decision-making process.

**Job Accommodation Network (JAN)**

1-800-526-7234 (Voice), 1-877-781-9403 (TT), [www.askjan.org](http://www.askjan.org)

A service of the Office of Disability Employment Policy, JAN can provide information, free-of charge, about many types of reasonable accommodations and provide referrals to other organizations that may have particular information about accommodations for persons with different disabilities.

**ADA National Network**

1-800-949-4232 (Voice/TT), [www.adata.org](http://www.adata.org)

The ADA National Network consists of 10 federally funded regional ADA National Network 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. The regional centers may provide information on reasonable accommodation and make referrals to local sources of expertise in reasonable accommodations.

**Registry of Interpreters for the Deaf**

(703) 838-0030 (Voice), (703) 838-0459 (TT), [www.rid.org](http://www.rid.org)

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

**RESNA Technical Assistance Project**

(703) 524-6686 (Voice), (703) 524-6639 (TT), [www.resna.org](http://www.resna.org)

The Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) may 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:

- 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),
- Centers where individuals can try out devices and equipment, and
- Assistance in obtaining funding for and repairing devices, and equipment exchange and recycling programs.

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**Internal Reasonable Accommodation Resources**

EEOC has many documents that address the reasonable accommodation obligation required under the Rehabilitation Act, including EEOC's Enforcement *Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act*, available at <http://www.eeoc.gov/policy/docs/accommodation.html>. In addition, the following documents may also be helpful:

- EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act, [www.eeoc.gov/policy/docs/guidance-inquiries.html](http://www.eeoc.gov/policy/docs/guidance-inquiries.html)
- *Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation*, [www.eeoc.gov/policy/docs/accommodation\\_procedures.html](http://www.eeoc.gov/policy/docs/accommodation_procedures.html)
- *EEOC Efforts for Veterans with Disabilities*, <https://www1.eeoc.gov/laws/types/veterans.cfm?redirected=https://www.eeoc.gov/laws/types/disability.cfm>.

EEOC has issued a number of documents that discuss how ADA addresses various leave issues, including:

- *Employer-Provided Leave and the Americans with Disabilities Act*, <https://www.eeoc.gov/eeoc/publications/ada-leave.cfm>
- Revised Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, [www.eeoc.gov/policy/docs/accommodation.html](http://www.eeoc.gov/policy/docs/accommodation.html) (see "Leave" under "Types of Reasonable Accommodations")
- *Enforcement Guidance on Pregnancy Discrimination and Related Issues*, [www.eeoc.gov/laws/guidance/pregnancy\\_guidance.cfm](http://www.eeoc.gov/laws/guidance/pregnancy_guidance.cfm) (see section II.B., "ADA and Reasonable Accommodation")
- The Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964,
- [www.eeoc.gov/policy/docs/fmlaada.html](http://www.eeoc.gov/policy/docs/fmlaada.html) (see "Comparison of ADA and FMLA Leave" and "ADA Compliance When the FMLA Also Applies") o *Enforcement Guidance: Workers' Compensation and the ADA*, [www.eeoc.gov/policy/docs/workcomp.html](http://www.eeoc.gov/policy/docs/workcomp.html) (see "Return to Work Decisions" and "Reasonable Accommodation")
- *The Americans with Disabilities Act: Applying Performance and Conduct Standards to Employees with Disabilities*, [www.eeoc.gov/facts/performanceconduct.html](http://www.eeoc.gov/facts/performanceconduct.html) (see "Attendance issues")

EEOC documents discussing specific types of disabilities and the most common reasonable accommodations for them; reasonable accommodations for particular types of workplaces

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(e.g., health care facilities); and leave and telework. These documents may be found on EEOC's website at <https://www.eeoc.gov/laws/types/disability.cfm>.

Information on EEOC's ergonomics program is available at <http://insite.eeoc.gov/EEOCWide/BEST/upload/ergo-faqs.html>.

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