

Instruction **256-022-01**:  
Reasonable Accommodation Program

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Date



**FEMA**

FEMA REASONABLE ACCOMMODATION POLICY

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## OVERVIEW

This Instruction provides guidance in the implementation of FEMA Directive 256-22-03, Reasonable Accommodation Program, by further outlining the Federal Emergency Management Agency's (FEMA or the Agency) policy and procedures for reasonable accommodation as it pertains to applicants for employment and employees.

## POLICY

FEMA must fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973, the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), Executive Order (EO) 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, and Executive Order 14035: Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce. FEMA must provide reasonable accommodations for the known physical or mental disabilities of applicants and qualified employees, unless FEMA demonstrates that the accommodation would impose an undue hardship. FEMA provides reasonable accommodations as follows:

1. Where an applicant for employment with a disability needs an accommodation in order to complete the application process;
2. Where an employee with a disability needs an accommodation to enable them to perform the essential functions of the job; or
3. Where an employee with a disability needs an accommodation to enjoy equal benefits and privileges of employment.

All requests for a reasonable accommodation will be coordinated with the Disability Support Branch (DSB) within the Office of Civil Rights (OCR). OCR will provide guidance, technical assistance, and facilitate the interactive process as needed for all parties involved. All timeframes outlined in this instruction are based on calendar days.

## PRINCIPLES

FEMA will process requests for reasonable accommodation as outlined in this policy, and as appropriate, provide a reasonable accommodation to the applicant or employee in a way that is consistent with the FEMA core values of compassion, fairness, integrity and respect. Fairness, efficiency, and speed will be emphasized.

**Fairness:** All requests for reasonable accommodation submitted to the OCR Disability Support Branch will be reviewed in a fair and impartial manner.

**Timeliness:** All reasonable accommodation requests will be processed within 45 days, in the absence of extenuating circumstances.

## **FORMS PRESCRIBED**

All prescribed forms are attached and linked within this instruction

1. FEMA Form 256-0-1, Request for Reasonable Accommodation
2. FEMA Form 256-0-1, Management Response to Request for Reasonable Accommodation
3. FEMA Form 145-FY21-100, Requisition for Supplies, Equipment, Services, Personnel and/or Teams

## CHAPTER 1: REQUESTS FOR REASONABLE ACCOMMODATION

### Overview

An individual with a disability may request a reasonable accommodation whenever they choose, even if they have not previously disclosed the existence of a disability. However, there may be limitations on the agency's ability to provide a requested accommodation at a specific time if insufficient notice is provided. Therefore, agency employees should request accommodations as soon as practicable after the need for such assistance becomes known.

### Procedures

The reasonable accommodation process begins when a request for accommodation is made. The following procedures apply to the request:

1. An applicant for employment may request an accommodation orally or in writing from any FEMA employee with whom they have contact throughout the application process. The FEMA employee receiving the request must notify the OCR Disability Support Branch as soon as they become aware of the request. An applicant for employment may also request an accommodation directly to the OCR Disability Support Branch at: [FEMA-OCR-RA@fema.dhs.gov](mailto:FEMA-OCR-RA@fema.dhs.gov).
2. An employee may request an accommodation orally or in writing through the [DHS Accessibility Compliance Management System \(ACMS\)](#), to their supervisor of record (SOR), Cadre Coordinator, Temporary Duty Supervisor, who will forward the request to OCR, Or the employee may directly contact the OCR Disability Support Branch utilizing FEMA Form 256-0-1, Request for Reasonable Accommodation who will . Regardless of who receives the request, all reasonable accommodation requests are to be coordinated with the OCR Disability Support Branch.
3. A request does not have to contain any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." A supervisor, manager, or the Disability Program Manager (DPM) should ask individuals whether they are requesting a reasonable accommodation if the nature of the initial communication is unclear, but where the employee associates a request or need for an accommodation with a medical condition.  
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 may be 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 may be a request for a reasonable accommodation.

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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.

If a Deciding Official receives an oral request for accommodation, they will request the employee to submit it through ACMS or complete FEMA Form 256-0-1 Request for Reasonable Accommodation to memorialize the request in writing. However, a request through ACMS or in writing is not mandatory and will not delay its processing. If the employee does not submit the request through ACMS or FEMA Form 256-0-1 within three calendar days of the request, the Deciding Official will submit the request for the employee to the OCR Disability Support Branch for entry and notification of both the employee and Deciding Official.

A Reasonable Accommodation (RA) Specialist will be assigned to a request upon receipt of submission, whether through ACMS or via FEMA Form 256-0-1 and whether submitted directly by the individual or on their behalf.

If a request is made to a supervisor who is not the Deciding Official for the employee, that individual must forward the request within three (3) calendar days to the OCR Disability Support Branch or the appropriate Deciding Official for the employee, if known.

A family member, health professional, or other representative may request an accommodation in conjunction with or on behalf of an applicant or employee. The request should be directed to the same person(s) to whom the applicant or employee would make the request as outlined above. A request does not have to include any specific words, such as “reasonable accommodation,” “disability,” or “Rehabilitation Act.”

When an employee needs a specific accommodation on a recurring basis (e.g., the assistance of sign language interpreters or readers), a formal request is only required on the first occasion requested; however, when known, advance notice of at least two days must be given to the OCR Disability Support Branch, but as far out as possible each subsequent time the accommodation is needed. The RA Specialist will provide the employee specific information on appropriate timeframes for submitting these requests.

### **Interactive Process**

The Deciding Official and the requesting applicant or employee must have a discussion about the request, the process for determining whether an accommodation will be provided, and the accommodation and possible alternatives to the requested

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accommodation. This discussion must begin within seven calendar days of the request being made. The Deciding Official will take a proactive approach in considering possible accommodations, including consulting with the applicant or employee and other appropriate resources, including those described in Chapter 7.

Ongoing communication is particularly important when the specific functional limitation is unclear, an effective accommodation is not obvious, or the applicant or employee and the Deciding Official are considering different possible accommodations. In those cases where the disability, the need for accommodation, and the type of accommodation that should be provided are clear, extensive discussions are not necessary. Even so, the Deciding Official and requesting individual must communicate with each other to make sure that there is a full exchange of relevant information.

RA Specialists are available throughout the interactive process to provide assistance to both Deciding Official and individual requesting accommodation.

### **Requests for Medical Documentation**

FEMA is entitled to know that an applicant or employee has a disability that entitles them to a reasonable accommodation. FEMA may require that an applicant or employee provide medical documentation describing their disability and functional limitations where the disability and need for accommodation are not obvious or otherwise already known to the Deciding Official.

Requests for medical documentation must be submitted directly to the OCR Disability Support Branch.

OCR will request medical documentation in the following manner:

1. **Applicants:** The Disability Program Manager (DPM) may request medical documentation when it is necessary to evaluate an accommodation request. If medical documentation provided is insufficient, the DPM will notify the applicant and request additional medical documentation within three (3) calendar days.
2. **Employees:** The Reasonable Accommodation (RA) Specialist may request medical documentation when it is necessary to evaluate an accommodation request. The employee will provide the required medical documentation to the RA Specialist within 14 calendar days of when the request is made.
3. Medical documentation will be considered sufficient if it meets the following criteria:
  - Describes the nature, severity, and duration of the individual's condition;
  - The activity or activities that the condition limits;
  - The extent to which the condition limits the individual's ability to perform said activity or activities; and
  - Substantiates why the requested reasonable accommodation is needed.
4. Medical documentation about the individual's disability and functional limitations must come from a licensed medical professional. Depending on the disability and



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the type of functional limitation it imposes, qualified professionals could include, among others, doctors, physician assistants, psychiatrists, psychologists, nurses, physical therapists, occupational therapists, speech therapists, and vocational rehabilitation therapist.

5. If medical documentation provided by an employee is insufficient for the Deciding Official to make a determination on the request, the RA Specialist will notify the employee and the Deciding Official in writing and request additional medical documentation within three (3) calendar days.
6. The written request for additional medical documentation from the RA Specialist will explain to the employee, in specific terms, why the documentation provided was insufficient, what additional documentation is needed, and why the additional documentation is necessary for the Deciding Official to make a determination on their accommodation request.
7. If the RA Specialist has sufficient medical documentation, they will provide the Deciding Official with an outline of the employee's workplace limitations and recommended accommodations within eight (8) calendar days of receiving the medical documentation. The Deciding Official will also be notified that processing of the accommodation request must be completed within seven (7) calendar days once they have received this documentation.
8. If the RA Specialist determines that submitted medical documentation must be reviewed, it will be sent to the DPM to forward to the Federal Occupational Health Medical Officer or FEMA Chief Medical Officer to review the documentation for sufficiency, if necessary. Alternatively, it may be performed by a health care provider of FEMA's choice and at FEMA's expense. Consideration should be given to providing the employee an interim or partial reasonable accommodation while awaiting additional documentation.
9. An applicant's or employee's failure to participate in the interactive process may result in denial of their request.
10. All medical records obtained during the accommodation request process are to be shared on a need-to-know basis and must be kept in files separate from the employee's personnel file.
11. The OCR Disability Support Branch is the custodian of all medical documentation upon completion of the interactive process following a final decision on an accommodation request. Individuals, managers and supervisors must forward all copies of medical information to OCR and destroy any local copies.
12. In the event of a change in an employee's supervisor, upon request, the OCR Disability Support Branch will provide the new supervisor with an outline of the employee's workplace limitations and approved accommodations. Individuals, managers and supervisors shall not discuss an employee's disability or need for an accommodation with personnel who have no need to know.

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13. A Deciding Official who believes, based on objective evidence, that an accommodation is no longer needed or is no longer supported by the medical documentation upon which it was originally granted, must contact the OCR Disability Support Branch to discuss whether further steps will need to be taken to determine the employee's continuing need for the accommodation.

### **Processing Timeframes**

All FEMA officials are expected to act as quickly as reasonably possible in processing requests and providing accommodations, as failure to respond promptly to a request may result in a violation of the Rehabilitation Act.

Absent of extenuating circumstances, FEMA will process requests for Reasonable Accommodation and where approved provide accommodations within 45 calendar days from the date FEMA received the request.

Requests for reasonable accommodation will be processed as follows:

1. If a request from an employee is received and medical documentation is not needed, the Deciding Official is responsible for ensuring the request is processed and, if granted, the accommodation is provided within 15 calendar days from the date of receipt of the request.
2. In cases where medical documentation is needed, the accommodation, if granted, will be provided within 25 calendar days from the date the RA Specialist receives sufficient information to know that an employee has a disability and requires a reasonable accommodation absent any extenuating circumstances, including but not limited to, the unavailability of items within the supply system for immediate shipment.
3. Standard processing timeframes do not apply in cases where an employee or their medical professional fails to provide requested medical documentation in a timely manner. The agency may toll, or suspend, the timeframes once it has requested medical documentation. However, the processing timeframe resumes as soon as medical documentation is received.
4. If a request from an applicant is received and medical documentation is not needed, the DPM will make a determination and provide notice to the employee or applicant within ten (10) calendar days.
5. Requests are processed in the order in which they are received. In cases where an employee has indicated that their request is time sensitive, the request shall be granted expedited processing. Examples of situations where requests will be considered time sensitive include an upcoming job interview, scheduled official travel, disaster deployment, or Entry on Duty for new hires.
6. Applicants or employees will be notified of a denial of a request for reasonable accommodation within 45 calendar days of receipt of the request. This does not

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include time elapsed while FEMA awaits requested sufficient information to determine whether the employee has a disability and requires a reasonable accommodation. Information about the denial process is described in Chapter 2.

7. For reasonable accommodation cases where an employee has been unresponsive, after being required to submit sufficient supporting documentation, the accommodation request will be closed due to inactivity 30 days after FEMA's last communication or request for information. Employees may submit a new accommodation request at any time.

## CHAPTER 2: DECISIONS AND APPEALS

Deciding Officials who grant or deny requests for reasonable accommodation or who make hiring decisions must know how to arrange for the use of agency resources to provide the accommodation, including any centralized fund the agency may have for that purpose.

### Granting a Request

As soon as the Deciding Official determines that a reasonable accommodation will be granted, the decision must be immediately communicated in writing to the individual through *FEMA Form 256-0-2, Management Response to Request for Reasonable Accommodation or Response to Request for Reasonable Accommodation Memorandum*. For employee requests, a copy must be sent to the RA Specialist.

- a. Absent exigent circumstances, the Deciding Official must secure and implement or provide the equipment or services that constitute the approved accommodation within 45 calendar days of the request; and
- b. If the accommodation cannot be provided within 45 calendar days of the request due to exigent circumstances, the Deciding Official must inform the individual of the projected timeframe for providing the accommodation, any interim accommodations that can be provided, and the reason(s) for the delay.

### Granting of an Alternative Accommodation

An applicant or employee with a disability is entitled to an *effective* accommodation and not necessarily the accommodation requested. The Deciding Official must communicate their decision to the individual as soon as possible using FEMA Form 256-0-2, and document why the Deciding Official and RA specialist for employees believe the alternative accommodation is more appropriate than the one requested.

Where the requested accommodation cannot be granted, the Agency will make every effort to identify an alternate accommodation to support the applicant or employee. In those instances where an alternative accommodation for an employee is not identified, the Deciding Official must consult with the RA Specialist to ensure all alternative accommodations are identified and considered.

### Denial of a Request

The agency shall give, in an accessible format, a written denial notice at the time the request for accommodation is denied or partially denied and must specifically state the reason for the denial.

The Deciding Official shall consider all resources available to the Agency as a whole, excluding those designated by statute for a specific purpose that do not include reasonable accommodations. The Deciding Official shall not deny a request for accommodation based solely on cost and is not acceptable when another less costly

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effective accommodation is available; and may result in a violation of the Rehabilitation Act of 1973 and FEMA policy.

Prior to denying a request for reasonable accommodation for an applicant or employee, the Deciding Official and the RA Specialist (assigned to the employee request) must consult with the OCC embedded attorney in OCR to articulate the specific reasons for the denial. The Deciding Official in coordination with the RA Specialist (assigned to the employee request) will draft the denial decision. The OCR Director must review and concur with all denial decisions within 3 business days of the denial decision.

An applicant or employee who believes they were unlawfully denied a reasonable accommodation may file a complaint of discrimination. They must contact the OCR Equal Employment Opportunity Branch and initiate contact with an EEO Counselor within 45 days of the denial by contacting [FEMA-OCR-EEO@fema.dhs.gov](mailto:FEMA-OCR-EEO@fema.dhs.gov), and may do so regardless of whether the applicant or employee participates in an informal dispute resolution process.

Upon concurrence by the OCR Director, a written communication of the decision must be provided to the individual requesting the accommodation within 5 business days of the denial decision. The denial must clearly state the specific reasons for the denial, which shall include, where applicable:

- a. Why the requested accommodation would not be effective;
- b. Why the requested accommodation would result in undue hardship to the Agency;
- c. Whether medical documentation provided was inadequate to establish that the individual has a disability and/or needs a reasonable accommodation;
- d. Whether the requested accommodation would require the removal of an essential job function; or
- e. Whether the requested accommodation would require the lowering of a performance or production standard.

### **Reconsideration of a Denial**

An applicant or employee who has requested a reasonable accommodation may request prompt reconsideration of a denial of reasonable accommodation.

1. If an applicant is denied their request for reasonable accommodation, they may appeal directly to the OCR Director in writing, within ten (10) calendar days of the applicant's receipt of the decision. The applicant may present additional information in support of their request. All additional information in support of their request must also be submitted within ten (10) calendar days of receipt of the decision. The Director will respond to this request within ten (10) calendar days of receipt of the request.
2. If an employee is denied their request for reasonable accommodation, they may appeal directly to their second level supervisor within ten (10) calendar days of the employee's receipt of the decision. The employee may present additional

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information in support of their request. The second level supervisor will respond to this request within ten (10) calendar days of receipt of the request. The appeal decision must be reviewed by OCR within ten (10) days prior to issuance. The employee may submit a new request for a reasonable accommodation at any time.

### **Right To File EEO Complaint**

The agency shall give, in an accessible format, a written denial notice at the time the request for accommodation is denied.

### **Extenuating Circumstances**

Extensions based on extenuating circumstances are limited to circumstances where they are strictly necessary. The Agency is expected to act as quickly as possible in processing and providing accommodations. Extenuating circumstances include, but are not limited to:

- a. A delayed or outstanding initial or follow-up request for medical documentation.
- b. The purchase of equipment needed to fulfill the reasonable accommodation takes longer than 15 calendar days, and the delay is beyond FEMA's control.
- c. Logistical delays with procuring equipment such as the equipment is backordered, the vendor is no longer in business, or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
- d. New staff needs to be hired or contracted for, or an accommodation involves the modification or removal of architectural barriers.

Where extenuating circumstances are present, the Deciding Official must notify the individual of the reason for the delay, and the approximate date on which a decision, or provision of the reasonable accommodation, is expected. Any further developments or changes must also be communicated promptly to the individual.

If there is a delay in providing an accommodation that has been approved, the Deciding Official must determine whether an interim accommodation for the employee is available. In addition, the Deciding Official may provide measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an essential function) if: (1) they do not interfere with the operations of the Agency; and (2) the employee is clearly informed that the measure is only temporary.

If a delay is attributed to the need to obtain or evaluate medical documentation and FEMA has not yet determined that the individual is entitled to an accommodation, FEMA may provide an interim accommodation. In this case, the Deciding Official will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the request.

Deciding Officials who approve interim accommodations are responsible for assuring that they do not take the place of the appropriate permanent accommodation and must

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not last longer than 45 calendar days absent extenuating circumstances. Deciding Officials will regularly check in with the employee and consult with RA Specialists to ensure all necessary steps are being taken to secure a permanent accommodation.

### **Periodic Review of Reasonable Accommodation**

The employee and supervisor will review the employee's reasonable accommodations on at least an annual basis from the date of implementation to ensure the accommodation is still effective. Employees can share if their workplace limitations have changed and convey whether the accommodation is still effective from their perspective.

Supervisors can determine if there are any changes to an employee's disability and if a more effective accommodation is needed. Further, this ensures FEMA is doing what is appropriate under federal disability law.

FEMA employees who have an approved accommodation must have an interactive discussion with their supervisor annually to discuss their accommodation and if any medical documentation needs to be updated. One of the following will apply:

- If the employee has a permanent disability – and their medical documentation on file currently reflects that – they will not need to provide updated documentation.
- If the employee has an obvious condition (i.e., a person who is deaf), they will not need to provide medical documentation to support that they are a person with a disability, though they *may* need to do so to support their accommodation request if the workplace limitation is not obvious. Employees should engage with their supervisor and/or the OCR Disability Support Branch to clarify.
- If the employee has a non-obvious condition and needs a new accommodation or has an accommodation currently, but has never submitted required documentation, the employee must provide documentation to support their request to the OCR Disability Support Branch.
- If an employee's current documentation meets one of the criteria below, the employee must provide updated medical documentation from a medical professional outlining the current status of their condition to the OCR Disability Support Branch:
  1. Does not provide a specific duration for the requested accommodation;
  2. Indicates their condition or need for accommodation will change; or
  3. Indicates that the need for accommodation is about to expire and the employee still anticipates the continued need for an accommodation.

## **CHAPTER 3: REASONABLE ACCOMMODATION FUNDING AND EXAMPLES**

### **Funding for Reasonable Accommodation Requests**

OCR will provide and/or coordinate funding for reasonable accommodations for applicants for their request for accommodation. OCR will provide and/or coordinate funding for employees for reasonable accommodations and will pay for recurring costs for services such as sign language interpreters (OCR does not fund services for public meetings sponsored by program offices. Program offices are responsible for arranging and funding interpreter services for these meetings), and personal assistant services. OCR funds the first instance of products or equipment (i.e., an ergonomic chair, keyboard, monitor, or assistive technology software) provided as a reasonable accommodation to an employee. The employee's program office is responsible for funding any subsequent accommodation that provides the same product or equipment to the employee. For example, if OCR purchases an ergonomic chair for the first time as a reasonable accommodation for an employee, any replacement of the ergonomic chair for any reason is the responsibility of the employee's program office. If an employee needs a monitor as reasonable accommodation and it is subsequently determined the employee also needs assistive technology software as a reasonable accommodation, OCR will fund the first instance of both of these items. If an upgrade to the software is required, that is the responsibility of the employee's office to fund and provide. Subsequently, where an employee requires a reasonable accommodation in the field, the organization where the employee is located – such as the JFO – will procure the items or services. If a unique item or personal services are required, OCR will provide the appropriate approved and coordinated statement of work for any unique contracting action. An employee's program office is responsible for office supplies such as printer ink and paper.

If an employee's reasonable accommodation is approved for a travel-related reasonable accommodation that falls outside of standard travel regulations and procedures, the SOR is responsible for verifying the travel accommodation is a valid need and effective accommodation based on the employee's reasonable accommodation.

All reasonable accommodations for local hires, reservists, and other employees deployed to a disaster are funded by the applicable disaster through the Disaster Relief Fund.

### **Sign Language Interpreting and Communication Access Realtime Translation (CART) Services**

FEMA provides sign language interpreting and CART services for applicants and employees who are deaf or hard of hearing. Services are provided on a scheduled basis. Examples of when an interpreter or CART could be used are:

- One-on-one meetings between employees
- Team meetings



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- Office staff meetings
- Training or workshops, where the employee is an attendee/participant
- Office gatherings of either a social or business nature

Sign Language Interpreting or CART services can be requested via email at: [FEMA-SLI-CART@fema.dhs.gov](mailto:FEMA-SLI-CART@fema.dhs.gov).

### **Personal Assistance Services (PAS)**

Pursuant to 29 C.F.R. § 1614.203(d)(5), federal agencies are required to provide PAS to employees who need them because of a targeted disability, unless doing so would impose an undue hardship on FEMA.

Not everyone with a targeted disability is entitled to PAS; only those individuals with a targeted disability who require assistance with activities of daily living may receive PAS. Medical conditions that are more likely to result in the need for PAS include, for example, missing limbs or paralysis due to spinal cord injury. The process for requesting PAS is the same process as requesting a reasonable accommodation, as provided in Chapter 2.

### **Service and Emotional Support Animals**

A service animal must be individually trained to do work or tasks directly related to the individual's disability. Animals whose sole function is to provide comfort or emotional support do not qualify as service animals under the Americans with Disabilities Act but may be permitted as an approved reasonable accommodation. The use of emotional support animals as a reasonable accommodation will be evaluated on a case-by-case basis.

An applicant must notify the DPM at [FEMA-OCR-RA@fema.dhs.gov](mailto:FEMA-OCR-RA@fema.dhs.gov) that they have a disability and require the use of a service or emotional support animal. Employees must notify their immediate supervisor or the OCR Disability Support Branch that they have a disability and require the use of a service or emotional support animal. This notification can be done through the reasonable accommodation request process.

If an applicant or employee with an animal comes to a FEMA facility where it is not obvious that the animal is a service or emotional support animal, FEMA personnel may ask only two specific questions:

- (1) Is the animal a service or emotional support animal required because of a disability?
- (2) What work or task has the animal been trained to perform?

FEMA personnel and Security staff (if non-FEMA, e.g. contract security or FPS), are not allowed to request any documentation for the animal, require that the animal

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demonstrate its task, or inquire about the nature of the person's disability. Accommodating visitors with service or emotional support animals to FEMA facilities is subject to the requirements of Section 504 of the Rehabilitation Act and procedures in this paragraph must also be used for such visitors.

Unless the disability is obvious, the requesting individual may be required to provide medical documentation to their supervisor or the OCR Disability Support Branch describing the specific work or tasks the animal performs.

When on-site at a FEMA facility, the service or emotional support animal must be under the handler's control at all times. For instance, the animal must be harnessed, leashed, or tethered. If these devices interfere with the animal's work or the individual's disability prevents using these devices, the animal must be under the handler's control via other means (e.g., voice control). The animal is to accompany its handler while at the facility at all times.

Recognizing the variety of environments where FEMA employees may deploy, employees are solely responsible for ensuring that the service or emotional support animal stays under the control of the employee at all times; ensuring and maintaining documentation that the animal receives all the vaccinations as medically required by the jurisdiction in which the animal is housed and/or works. The OCR Disability Support Branch is available to provide additional information about the use of a service or emotional support animal at FEMA.

An individual may be asked to move or remove their service or emotional support animal if:

1. The animal is out of control (e.g., uncontrolled barking, jumping on other people, running away from the handler) and the handler does not take effective action to control it, and/or;
2. The animal is not housebroken.
3. The animal's presence impacts another employee's reasonable accommodation or unduly burdens the general work environment.

When there is a legitimate reason to move or remove a service or emotional support animal, the OCR Disability Support Branch will coordinate with the applicant, visitor, or employee and their supervisor, to determine alternative reasonable accommodations for the individual to perform the functions of their job and the opportunity to obtain goods or services (e.g., café items, health unit services, etc.) without the animal's presence unless doing so would cause an undue hardship.

OCR will fund hotel and associated pet fees for flights (i.e., carrier fees). OCR is not responsible for personal care items or services (i.e., dog food, reimbursement of veterinary care expenses, etc.). Any other expenses that are not listed will be considered on a case-by-case basis, unless doing so would cause an undue hardship.

## **Reassignment**

Reassignment is considered the accommodation of last resort. Only after all other options have been exhausted should reassignment be considered. If an employee can no longer perform the essential functions of their position, with or without an accommodation – perhaps due to a sudden accident, new diagnosis, or deterioration of a medical condition – and the employee once performed satisfactorily in the position, then reassignment will be considered. Reassignment is available only to employees, not to applicants. In addition, reassignment may be made only to a vacant funded position. FEMA is not required to create new positions or remove other employees from their positions in order to create a vacancy.

Reassignment to a vacant position for which an employee is qualified, and not just permission to compete for such position, may be a reasonable accommodation. The agency must consider providing reassignment to a vacant position as a reasonable accommodation when it determines that no other reasonable accommodation will permit a qualified employee with a disability to perform the essential functions of their current position.

Where an employee's request for a reasonable accommodation has been denied and the employee is eligible for reassignment, the Disability Program Manager (DPM) will work with the Selective Placement Program Coordinator (SPPC) in the Office of the Chief Component Human Capital Officer (OCCHCO) and the employee requesting the accommodation to identify: (1) if there are any vacant funded positions within FEMA for which the employee is qualified, with or without reasonable accommodation; and (2) positions which OCCHCO has reason to believe will become vacant over the next 30 calendar days and for which the employee is qualified.

The SPPC will first focus on finding positions that are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, FEMA will consider vacant lower-level positions for which the individual is qualified.

Reassignment may be made to a vacant funded position outside of the employee's commuting area if the employee is willing to relocate. FEMA will not pay for the employee's relocation costs.

In the event that a vacant funded position is not available, the SPPC will expand its search for vacancies to other DHS components. If a position is not identified within 15 calendar days from the receipt of a reassignment job search request, the SPPC will notify the employee, SOR, and the OCR Disability Support Branch of the negative search results. The SOR must then work with OCCHCO to have the employee removed from the agency in accordance with OCCHCO policies and procedures based on their inability to perform the essential functions of their position with or without a reasonable accommodation. Failure by the employee to engage in the reassignment process within five (5) calendar days of contact from OCCHCO, will result in FEMA moving forward with termination of the employee.

## FEMA REASONABLE ACCOMMODATION POLICY

### Training at FEMA Facilities

Program offices conducting training at FEMA facilities must provide a statement on all training announcements outlining the process to request a reasonable accommodation. The statement must include a program office point of contact (POC) and a timeframe for requesting the reasonable accommodation. Program office POCs will coordinate all requests with the OCR Disability Support Branch. Sample language provided below:

*If you need a reasonable accommodation (sign language interpreters, Braille, CART, etc.), please make your request by [DATE]. Last minute requests will be accepted but may not be possible to fulfill. Send an e-mail to [insert email from program office hosting the event/meeting] or call XXX-XXX-XXXX.*

Employees attending training as a temporary duty assignment who need an accommodation at any FEMA training facility must provide a copy of their approved RA as soon as they register for a class. The approved accommodation must be submitted immediately to the FEMA Qualification System (FQS) training inbox at [FEMA-FQS-Training@fema.dhs.gov](mailto:FEMA-FQS-Training@fema.dhs.gov).

Program offices conducting training will make a sincere effort, barring any extenuating circumstances, to announce the training in advance to allow fair opportunity for accommodations to be requested, reviewed, and coordinated.

## CHAPTER 4: REASONABLE ACCOMMODATION FOR DEPLOYMENT

### Procedures

Once an employee with an approved accommodation receives a deployment request—and will need the same accommodation while deployed—they must immediately notify their supervisor of record (SOR), prior to accepting the deployment, that their accommodation will need to be implemented at the deployment location. The SOR will communicate the previously approved accommodation to the appropriate Temporary Duty Supervisor (TDS) and the Cadre Coordinator. The SOR will not convey any health or medical background information. If the accommodation cannot be implemented, the employee may decline the deployment without being penalized.

The employee must have a copy of the approved FEMA Form 256-2 while deployed to substantiate that they have an approved reasonable accommodation and need to implement the accommodation or request equipment at the deployment site. However, this requirement is subject to – and must be read in conjunction with – the directive below requiring requests for reasonable accommodations be made in advance of deployments.

Qualified employees with a disability who have reason to anticipate being deployed shall make requests for reasonable accommodation, where practicable, at least 10 business days before anticipated deployment. This requirement exists to ensure that when the employee receives deployment orders their request is evaluated and approved by their SOR before they are deployed, and where possible, implemented by the TDS before arrival.

If an employee does not already have an approved reasonable accommodation but will need one while deployed, the employee must immediately communicate the accommodation request to their SOR or the OCR Disability Support Branch prior to accepting the deployment request. Requests will be submitted through [ACMS](#) or by submitting FEMA Form 256-1 to [FEMA-OCR-RA@fema.dhs.gov](mailto:FEMA-OCR-RA@fema.dhs.gov), including sufficient supporting medical documentation. The SOR will make the decision in coordination with the OCR Disability Support Branch and communicate the approved accommodation to the TDS and the Cadre Coordinator. In the event that an employee has submitted a reasonable accommodation request that is currently in process and an interim accommodation has not been granted, an employee may decline a deployment order without penalty.

If an employee has an approved accommodation in steady state, but will need a different accommodation when deployed, they must communicate the *new* accommodation request to their SOR or OCR Disability Support Branch through [ACMS](#) or by submitting FEMA Form 256-1, with sufficient supporting medical documentation to [FEMA-OCR-RA@fema.dhs.gov](mailto:FEMA-OCR-RA@fema.dhs.gov). The SOR will make the decision in coordination with the OCR Disability Support Branch and communicate the approved accommodation to the TDS and the Cadre Coordinator.

## FEMA REASONABLE ACCOMMODATION POLICY

Failure for an employee to promptly advise of their need of an accommodation while deployed, or failure to request a reasonable accommodation prior to deployment, may delay and/or result in cancellation of deployment without penalty. If an employee arrives at their deployment location and the approved reasonable accommodation, because of austere conditions or due to other unforeseen reasons out of the control of FEMA, cannot be implemented or the needed equipment is unavailable or cannot be procured, and an alternative accommodation cannot be identified to accommodate their needs, the employee may be demobilized without penalty.

## CHAPTER 5: CLAIMS AND CONFIDENTIALITY REQUIREMENTS

### Statutory and Collective Bargaining Claims

An individual who chooses to pursue statutory or collective bargaining remedies for denial of reasonable accommodation must:

1. For a complaint to the Equal Employment Opportunity Commission (EEOC) pursuant to 29 C.F.R. Part 1614, contact OCR within 45 calendar days from the date of the denial of reasonable accommodation by emailing FEMA-EqualRights@fema.dhs.gov;
2. For a collective bargaining claim, if applicable, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement [FEMA-Local4060-CBA Updated.pdf](#) ; or
3. For an appeal to the Merit Systems Protection Board, initiate the appeal within 30 calendar days of an appealable adverse action as defined in 5 C.F.R. § 1201.3.

### Confidentiality Requirements

All requests for reasonable accommodation must be kept confidential in files separate from the individual's personnel file. Any information obtained regarding the medical condition or history of an applicant or employee must be collected and maintained on separate forms and kept in separate, confidential files with the Office of Civil Rights Disability Support Branch. Any FEMA employee who obtains or receives such information is strictly bound by these confidentiality requirements.

The OCR Disability Support Branch is the primary point of contact for receipt of confidential medical information and if others, e.g., Deciding Officials, receive that information during the course of the process, they will forward it to the OCR Disability Support Branch for proper storage. The OCR Disability Support Branch will maintain custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records, and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act, the requirements of 29 C.F.R. §1630.14(c)(1), and this Instruction.

This medical information may be disclosed as outlined in the System of Records Notices, [Department of Homeland Security/ALL-033 Reasonable Accommodations Records System of Records](#), July 13, 2011 76 FR 41274.

Whenever medical information is disclosed, the recipient of the information must be informed of the confidentiality requirements.

## CHAPTER 6: TRACKING AND REPORTING

Agency reasonable accommodation information and activity is reported through EEOC Form 462 Report, EEOC Management Directive 715 Report, and annual reports by OCR to DHS Civil Rights and Civil Liberties (CRCL).

FEMA is required to identify and report the following information regarding requests for reasonable accommodation annually:

1. The number and types of reasonable accommodations that have been requested for each job (occupational series, grade level), by agency component;
2. Whether the accommodation was required to apply for a job;
3. Whether the accommodation was required to perform the essential functions of a job; or enjoy the benefits and privileges of employment.
4. Whether those requests have been granted or denied;
5. How many of those requests relate to the benefits or privileges of employment;
6. The reasons for denial of requests for reasonable accommodation;
7. The amount of time taken to process each request for reasonable accommodation;
8. The identity of the Deciding Official; and
9. The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations. The DPM will retain, for at least three years, information or any cumulative records used to track FEMA's performance with regards to reasonable accommodation.

In accordance with the information tracking requirements, the Deciding Official must submit the *FEMA Form 256-0-2, Management Response to Request for Reasonable Accommodation* to the OCR Disability Support Branch within ten (10) calendar days of the decision. The Deciding Official must attach copies of all information, including medical information they received as part of processing the request.

The OCR Disability Support Branch will maintain records related to an employee's request for accommodation for the duration of the employee's tenure. Additionally, the unit must keep records that it may use to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501 and to make such records available to EEOC upon EEOC's request.



## **ADDITIONAL INFORMATION**

### **Review Cycle**

FEMA Instruction 256-022-01, Reasonable Accommodation Program, will be reviewed, reissued, revised, or rescinded within four years of the issue date.

### **Distribution**

These procedures must be distributed to all employees upon issuance. They also must be posted on FEMA's intranet and internet sites. Copies of these procedures will also be available in the OCR and OCCHCO.

## **AUTHORITIES AND REFERENCES**

1. The Americans with Disabilities Act, as amended by the ADA Amendments Act of 2008, 42 U.S.C. §§ 12101 et seq.
2. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 et. seq.
3. Title 29 C.F.R. Part 1630, Regulations to Implement the Equal Employment provisions of the Americans with Disabilities Act.
4. Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000 et seq.
5. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation, July 2000.
6. Title 29 C.F.R. Part 1614, Federal Sector Equal Employment Opportunity.
7. Title 29 C.F.R. §1630.14(c)(1), Privacy Act Regulations.
8. U.S. Equal Employment Opportunity Commission (EEOC) Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans With Disabilities Act.
9. EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act.
10. EEOC Guidance: Work at Home/Telework as a Reasonable Accommodation.
11. EEOC Questions & Answers: Federal Agencies' Obligation to Provide Personal Assistance Services Under Section 501 of the Rehabilitation Act.
12. Department of Homeland Security Directive No. 259-01, Providing Reasonable Accommodations for Employees and Applicants with Disabilities.

## DEFINITIONS

Accessibility Compliance Management System (ACMS): A computer database created and managed by the Department of Homeland Security (DHS) Office of Accessible Systems Technology that tracks accessibility and accommodation requests from applicant and employees.

Deciding Official: An individual of authority who determines, after consultation with the OCR Disability Support Branch, whether an accommodation request will be approved or denied, or whether an alternative accommodation will be provided. The Deciding Official must be the supervisor of record (SOR) or another designated official as described below.

1. The OCR Disability Program Manager (DPM) is the Deciding Official for accommodation requests for applicants for employment.
2. For deployed employees, the Deciding Official is the SOR who will communicate the approved accommodation to the appropriate Temporary Duty Supervisor (TDS) and the Cadre Coordinator.
3. For Surge Capacity Workforce, the TDS is the Deciding Official and must coordinate with the OCR Disability Support Branch.
4. For all others, the Deciding Official may be the SOR or another designated official within the employee's chain of command.

### Disability:

1. A physical or mental impairment that substantially limits a major life activity;
2. A record of such an impairment; or
3. Being regarded as having such an impairment.

The definition of "disability" should be interpreted broadly. The question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis. Only qualified individuals with a current disability are entitled to a reasonable accommodation. Individuals who have a record of an impairment that is no longer limiting a major life activity are not entitled to an accommodation.

Emotional Support Animal (ESA): An animal that is prescribed by a licensed mental health professional to a person with a disabling mental illness to relieve the symptoms associated with their mental health disorder. Emotional support animals are not recognized as service animals under the ADA because they are not seen as "working animals." However, FEMA will consider requests for an ESA as a reasonable accommodation on a case-by-case basis.

## FEMA REASONABLE ACCOMMODATION POLICY

Employees: A Permanent Full-Time Employee (PFT), Temporary Full-Time Employee (TFT), Part-Time Employee, Cadre on On-call Response/Recovery Employee (CORE), Reservist, or Local Hire.

Essential Functions: Those job duties so fundamental to the position that the individual holds or desires that they cannot do the job without performing them. 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; and/or the function is highly specialized, and the individual is hired based on their expertise or ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.

Extenuating Circumstances: Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or limited situations in which unforeseen or unavoidable events prevent prompt processing of a request and delivery of an approved accommodation.

Functional Limitation: A restriction or condition that limits a person’s ability to function in a way that falls within the normal range for the activity.

Interactive Process: A discussion with an applicant or employee who has requested an accommodation (or otherwise indicated a need) in order to clarify the specific nature of the disability and identify the appropriate reasonable accommodation.

Interim Accommodation: A temporary or short-term solution when an approved accommodation cannot be implemented immediately.

Major Life Activities: Basic activities that most people in the general population can perform with little or no difficulty. Major life activities include, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, or 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.

Medical Documentation: Documentation provided by a licensed medical practitioner describing the nature, severity, and duration of the individual’s impairment; the workplace activities the impairment limits; the extent to which the condition limits the individual’s ability to perform said activities; and substantiates why the requested reasonable accommodation is needed.

Personal Assistant Services (PAS): Assistance with performing activities of daily living that an individual would typically perform if they did not have a targeted disability, and

## FEMA REASONABLE ACCOMMODATION POLICY

that is not otherwise required as a reasonable accommodation. PAS must be performed by a personal assistance service provider.

Physical or mental 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; or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing loss, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, drug addiction, and alcoholism.

Qualified Individual with a Disability: An individual with a disability that:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the position; and
2. Can perform the essential functions of the position, with or without reasonable accommodation.

Reasonable Accommodation:

1. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
2. 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 an individual with a disability who is qualified to perform the essential functions of that position; or
3. Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

Reassignment: A form of reasonable accommodation that must be provided to an employee, who, because of a disability, can no longer perform the essential functions of the position they hold, with or without reasonable accommodation. Reassignment is considered the accommodation of "last resort."

Selective Placement Program Coordinator: Assists FEMA management with the reassignment process and conducts the search for vacant funded positions within the Agency and Department.

## FEMA REASONABLE ACCOMMODATION POLICY

**Service Animal:** A service animal is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including physical, sensory, psychiatric, intellectual, or other mental disability. The task or tasks performed by the service animal must be directly related to the individual's disability.

**Substantially Limits:** The extent to which an individual's ability to perform a major life activity is impaired due to their condition, compared to most people in the general population.

**Targeted Disability:** Designated as a "serious health condition" on the U.S. Office of Personnel Management's [Standard Form 256](#). Some targeted disabilities for which PAS may be needed include:

- missing extremities;
- significant mobility impairment benefitting from utilization of supports (such as a wheelchair or walker); and
- partial or complete paralysis.

**Undue Hardship:** An action requiring significant difficulty or expense to the Agency, when considering factors that include the nature and cost of the reasonable accommodation and the impact of the reasonable accommodation on the operations of the Agency, including the impact on the ability of others to perform their duties. Determination of undue hardship is always made on a case-by-case basis.

## MONITORING AND EVALUATION

The Office of Civil Rights and Office of Policy and Program Analysis (OPPA) will monitor and evaluate implementation of this instruction to inform future revisions.

## RESOURCE ASSISTANCE

Listed below are resources to assist in providing Reasonable Accommodations:

### **Office of Civil Rights, FEMA**

(202) 212-3535 (Voice)

[FEMA-OCR-RA@fema.dhs.gov](mailto:FEMA-OCR-RA@fema.dhs.gov)

[FEMA-SLI-CART@fema.dhs.gov](mailto:FEMA-SLI-CART@fema.dhs.gov)

<https://usfema.sharepoint.com/sites/OAI/ooer/Pages/RA.aspx>

### **Computer/Electronic Accommodations Program (CAP)**

(833) 227-3272 (Voice); (571) 384-5629

[www.cap.mil](http://www.cap.mil)

### **U.S. Equal Employment Opportunity Commission**

(800) 669-4000 (Voice); (800) 669-6820 (TTY)

<http://www.eeoc.gov>

## FEMA REASONABLE ACCOMMODATION POLICY

### **Job Accommodation Network (JAN)**

(800) 526-7234 (Voice); (877) 781-9403 (TTY)

<http://askjan.org/>

### **ADA Disability and Business Technical Assistance Centers (DBTACs)**

(800) 949-4232 (Voice/TTY)

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

### **United States Access Board**

(202) 272-0080 (Voice); (202) 272-0082 (TTY)

<http://www.access-board.gov/>

## **INQUIRIES**

Any person wanting further information concerning these procedures may contact the OCR Disability Support Branch at [FEMA-OCR-RA@fema.dhs.gov](mailto:FEMA-OCR-RA@fema.dhs.gov).