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GENERAL AND ADMINISTRATIVE
POLICY INSTRUCTION
FLRA No. 3890.1

REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH DISABILITIES	Issue Date: March 28, 2014
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Contents

0101. General Provisions

- 101.1. Purpose
- 101.2. Policy
- 101.3. Scope and Coverage
- 101.4. References
- 101.5. Definitions
- 101.6. Responsibilities

0102. Prohibition Against Discrimination

0103. Procedures

- 103.1. General Guidelines for Requesting Reasonable Accommodation
- 103.2. Initiating a Request for Reasonable Accommodation
- 103.3. Authority to Act on Requests
- 103.4. Engaging in the Interactive Process
- 103.5. Determining Whether the Individual Has a Disability
- 103.6. Confidentiality of Medical Information
- 103.7. Determining Agency Undue Hardship
- 103.8. Time Frames for Processing Requests
- 103.9. Extenuating Circumstances
- 103.10. Determination on Requests for Reasonable Accommodation
- 103.11. Temporary Accommodation Measures

0104. Types of Reasonable Accommodation

- 104.1. Modification of Worksite
- 104.2. Assistive Devices
- 104.3. Readers, Interpreters, and Personal Assistants
- 104.4. Flexible Leave Policies
- 104.5. Modified or Part-Time Work Schedule
- 104.6. Restructuring Jobs
- 104.7. Accommodation for Meetings, Conferences, Training, and Seminars
- 104.8. Work at Home
- 104.9. Reassignment

0105. Limitations on the Obligation to Accommodate

0106. Reasonable Accommodation for Alcoholism and Drug Abuse

0107. Federal Information Technology Accessibility Initiative

0108. Records Management, Retention, and Disposal

0109. Program Evaluation

0110. Effective Date

Appendix A - Reasonable Accommodation Request and Record Form

0101. GENERAL PROVISIONS.

101.1. Purpose.

This Instruction describes policies and guidance for the application of reasonable accommodations to job applicants with disabilities, and to employees who have or develop a disabling condition while employed at the Federal Labor Relations Authority (FLRA). This Instruction supersedes FLRA Instruction No. 3890, issued on November 9, 2009.

101.2. Policy.

The FLRA is firmly committed to supporting the principles of equal employment opportunity for both applicants and employees and to ensuring that qualified individuals with disabilities are not discriminated against because of their disability in regard to job-application procedures, hiring, and other terms and conditions of employment. Consequently, the FLRA is prepared to provide reasonable accommodation to:

- Modify or adjust the job-application process or the job or work environment to accommodate known physical or mental limitations of the applicant or employee;
- Enable the applicant to be considered for the position s/he desires;
- Enable the employee to perform the essential functions of her/his position; and
- Enable the employee to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities, unless the accommodation would impose an undue hardship or pose a direct threat of substantial harm to the health or safety of the applicant, employee, or others.

Once an accommodation is properly requested, the responsibility for fashioning an effective accommodation is shared by the employee/applicant and the FLRA. If the requested accommodation is reasonable and does not result in undue hardship (see Section 103.7), the FLRA has an affirmative obligation to provide an accommodation on a continuing basis until the employee's condition no longer qualifies as a disability or unless providing reasonable accommodation becomes an undue hardship. If more than one accommodation is effective, the preference of the employee should be given primary consideration. However, the FLRA has the ultimate discretion to choose between effective accommodations.

Any FLRA employee or applicant may consult the Reasonable Accommodation Coordinator (RAC) within the Human Resources (HR) Division, or any FLRA supervisor/manager for information or assistance in connection with requesting or processing a request for reasonable accommodation.

101.3. Scope and Coverage.

This document sets forth the policies and procedures applicable to considering and making decisions on requests for reasonable accommodation for employees and applicants with disabilities. It also sets forth the record-keeping requirements for documenting reasonable accommodation requests and the decision process. Finally, this Instruction specifies the procedures used to request and consider medical documentation in cases where the disability and/or the need for accommodation are not obvious.

The provisions of this Instruction cover all FLRA employees and applicants for employment with the FLRA, regardless of the appointment mechanism, who have a disability as defined in Section 103.5 below. The concept of reasonable accommodation applies to all aspects of employment, including but not limited to recruitment, hiring, training, promotion, reassignment, and developmental assignments.

101.4. References.

- A.** The Rehabilitation Act of 1973, as amended (Rehabilitation Act):
 - 1. Section 501, prohibiting discrimination on the basis of disability in federal employment;
 - 2. Section 503, addressing the employment practices of federal contractors;
 - 3. Section 504, covering all programs receiving federal financial assistance;
 - 4. Section 508, requiring access to the federal government's electronic and information technology.
- B.** Americans with Disabilities Act of 1990 (ADA), as amended, Title 1, Employment.
- C.** ADA Amendments Act of 2008, 42 U.S.C. § 12101 note.
- D.** Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. §§ 2000ff-2000ff-11.
- E.** Section 717 of Title VII, Civil Rights Act of 1964, prohibiting employment discrimination based on race, color, religion, sex, and national origin.
- F.** Civil Rights Act of 1991 (Public Law 102-166), amending several sections of Title VII.

- G. U.S. Equal Employment Opportunity Commission Management Directive 715, providing policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII (Part A) and effective affirmative action programs under Section 501 of the Rehabilitation Act (Part B).
- H. Title 5, Code of Federal Regulations, Part 339, Medical Qualification Determinations.
- I. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151-4156.
- J. Executive Order 13,164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation.
- K. Title 29, Code of Federal Regulations, Part 1614, Federal Sector Equal Employment Opportunity.
- L. Title 29, Code of Federal Regulations, Part 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act.
- M. Title 29, Code of Federal Regulations, Part 1635, Genetic Information Nondiscrimination Act of 2008.

101.5. Definitions.

- A. *Days* are work days unless otherwise noted.
- B. *Decision-Maker* is the FLRA official who renders decisions on requests for reasonable accommodation. For employees, this individual is the HR Director or her/his designee, or the employee's immediate supervisor. For applicants, the decision-maker is the HR Director or the HR Specialist that the HR Director designates for the particular vacancy.
- C. *Disabled Person* is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.
- D. *Equal Employment Opportunity* is an opportunity for a qualified individual with a disability to perform the essential job functions or to enjoy the benefits and privileges of employment that are available to similarly situated individuals who are not disabled.
- E. *Essential Functions* are those job duties that are so fundamental to the position that the individual holds or desires that s/he cannot do the job without performing them. A function is considered "essential" if: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized, and the individual is hired based on her/his ability to perform it.

- F.** *Family Medical History* means information about the manifestation of disease or disorder in family members of the individual.
- G.** *Family Member* means with respect to any individual: a person who is a dependent of that individual as the result of marriage, birth, adoption, or placement for adoption; or a relative of the first degree (the individual's parents, siblings, and children), second degree (the individual's grandparents, grandchildren, uncles, aunts, nephews, nieces, and half-siblings), third degree (the individual's great grandparents, great grandchildren, great uncles/aunts, and first cousins), or fourth degree (the individual's great-great-grandparents, great-great-grandchildren, and first cousins once-removed).
- H.** *Genetic Information* means information about an individual's or family member's genetic tests; the manifestation of disease or disorder in family members of the individual (family medical history); the individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member; and the genetic information of a fetus carried by an individual or an individual's pregnant family member or any embryo lawfully held by the individual or family member using an assisted reproductive technology.
- Genetic information is **not** information about: an individual's or family member's sex or age; or an individual or family member's race or ethnicity that is not derived from a genetic test.
- I.** *Genetic Services* means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education.
- J.** *Genetic Test* means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. A genetic test is **not** an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.
- K.** *Health Care Professional* is a person who is legally competent to diagnose and/or treat the particular medical condition or conditions that are the basis of the accommodation request.
- L.** *Interactive Process* is a cooperative, constructive and, if necessary, ongoing dialogue between the individual who requests reasonable accommodation and the appropriate FLRA official for the purpose of identifying the nature of the request and effective accommodations.
- M.** *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. Major life activities also include the operation of a major bodily function,

including but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, 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. The term “major” shall not be interpreted strictly to create a demanding standard for disability. Whether an activity is a “major life activity” is not determined by reference to whether it is of “central importance to daily life.”

- N.** *Manifestation or Manifested* means, with respect to a disease, disorder, or pathological condition, that an individual has been or could reasonably be diagnosed with the disease, disorder, or pathological condition by a health care professional with appropriate training and expertise in the field of medicine involved. A disease, disorder, or pathological condition is not “manifested” if the diagnosis is based principally on genetic information.
- O.** *Mental Impairment* is any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- P.** *Physical Impairment* is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory (including speech organs); cardiovascular; reproductive; digestive; genitourinary; immune; circulatory; hemic; lymphatic; skin; and endocrine.
- Q.** *Qualified Individual* is an individual who satisfies the requisite knowledge, skills, abilities, and other job-related requirements of the position and can perform the essential functions of the position with or without reasonable accommodation.
- R.** *Reasonable Accommodation* may include: making existing facilities used by employees readily accessible to and usable by individuals with disabilities; job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations; training materials or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities. Reasonable accommodation normally does not require: providing an employee with a new supervisor; allowing an employee to work at home in circumstances where the essential functions of the job can only be performed at the work site; excusing a violation of a uniformly applied conduct rule that is job-related and consistent with business necessity; excusing past misconduct even if it is the result of the individual’s disability; and monitoring whether an employee takes medication as prescribed.

- S.** *Reassignment* is a form of reasonable accommodation that, absent undue hardship, is provided to employees who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignment as reasonable accommodation is a last resort measure. Reassignments are made without competition to vacant positions when employees are qualified for the new position.
- T.** *Record of an Impairment* is a history of, or classification as having, a mental or physical impairment that substantially limits one or more major life activities.
- U.** *Regarded as Having Such an Impairment* means having a physical or mental impairment that does not substantially limit major life activities, but being treated by an employer as constituting such a limitation; having a physical or mental impairment that substantially limits major life activities only as a result of the attitude of an employer toward such an impairment; or having none of the impairments defined above, but being treated by an employer as having such a limitation. An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that s/he has been subjected to an action prohibited by the Rehabilitation Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. “Being regarded as having such an impairment” does not apply to impairments that are both transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.
- V.** *Request for Accommodation* is an oral or written statement that an individual needs an adjustment or change at work, or in the application process, for a reason related to a medical condition. Additional information, as appropriate, may be obtained through the interactive process that follows the request.
- W.** *Requestor* is the applicant for employment or the employee who initiates a request for reasonable accommodation, or a family member, health professional, or other representative acting on the individual’s behalf.
- X.** *Substantially Limits* is to be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. Substantially limits is not meant to be a demanding standard. An impairment is a disability if it substantially limits an individual’s ability to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting. The threshold issue of whether an impairment substantially limits a major life activity should not demand extensive analysis. Each case requires an individual assessment. However, comparing an individual’s performance of a major life activity to that of most people in the population will usually not require scientific, medical, or statistical analysis. The determination of whether an impairment “substantially limits” a major

life activity shall be made without regard to the ameliorative effects of mitigating measures. However, the ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. The effects of an impairment lasting or expected to last fewer than six months can be substantially limiting.

- Y. *Undue Hardship* resulting from an action generally means significant difficulty or expense when considered in light of factors such as: the nature and cost of the accommodation needed; the overall financial resources of the agency; the number of persons employed; the effect of the accommodation on expenses and resources; and the impact of the accommodation on the operation of the agency.

101.6. **Responsibilities.**

A. **Requestors** are responsible for:

1. Bringing to the attention of the appropriate decision-maker a need for reasonable accommodation;
2. Participating in the interactive process or designating someone to do so; and
3. Providing the FLRA with sufficient medical documentation in support of requests for reasonable accommodation, when necessary.

B. **Decision-Makers** are responsible for:

1. Receiving, processing, and documenting reasonable accommodation requests;
2. Consulting with and obtaining guidance from the RAC within the HR Division on all aspects of the reasonable-accommodation procedure;
3. Participating in the interactive process;
4. Approving and providing the accommodation or forwarding the request to the appropriate office for implementation;
5. Meeting stated timeframes for processing and implementing approved accommodation requests;
6. Protecting the privacy of the requestor and the confidentiality of information obtained in the course of the reasonable-accommodation request; and

7. Consulting with the HR Director or her/his designee when accommodation is requested in conjunction with an anticipated or pending performance- and/or conduct-based action.

C. The **Public Health Service Medical Officer** is responsible for:

1. Reviewing and interpreting medical documentation, when necessary, for the purpose of assisting FLRA management in determining whether the individual requesting accommodation is an individual with a disability as defined in these procedures;
2. Communicating with the requestor, her/his representative, and/or her/his health care professional, when required, to clarify specific medical issues regarding a requestor's claim for reasonable accommodation; and
3. When FLRA management deems necessary, providing input to FLRA officials on medically-appropriate and effective accommodations.

D. The **Reasonable Accommodation Coordinator** (RAC) is responsible for:

1. Reviewing all reasonable accommodation requests to ensure compliance with law and regulation;
2. Advising supervisors, managers, and employees regarding their rights and responsibilities under this Instruction;
3. Establishing mechanisms for monitoring the processing of accommodation requests;
4. Maintaining the confidentiality of all information related to requests for reasonable accommodation;
5. Identifying possible accommodations for applicants and employees;
6. Conferring with the HR Director or her/his designee in situations where performance and/or conduct issues are involved in the reasonable-accommodation process;
7. Seeking guidance and assistance, upon consultation with the HR Director or her/his designee, as needed, from other offices and officials.
8. Maintaining and safeguarding reasonable-accommodation case files in accordance with records-retention requirements;
9. Providing statistical reports with respect to processing requests for reasonable accommodation, as required; and

10. Preparing an annual report in January for the Executive Director on the preceding year's requests for reasonable accommodation. The report will include the disposition of those requests, types of accommodations implemented, identification of issues that require attention, and recommendations for enhancements to the procedures.

E. The HR Director or her/his designee is responsible for:

1. Providing operational support and services to FLRA organizations;
2. Conducting job analyses on vacancies to ensure that the associated knowledge, skills, and abilities are related to the essential functions of the job and that barriers are removed from the hiring process;
3. Addressing requests from applicants for reasonable accommodation during the selection process;
4. Consulting with the RAC and supervisors on situations where performance and/or conduct issues are involved in the reasonable-accommodation process; and
5. Assisting in identifying and implementing accommodation solutions for employees, when needed.

F. The HR Director is responsible for:

1. Maintaining overall responsibility for the FLRA's HR programs, policies, procedures, and services and making changes, when appropriate; and
2. Providing guidance and assistance to all FLRA offices and officials involved in reasonable-accommodation issues, and exercising general oversight of the reasonable-accommodation procedures.

G. The Executive Director is responsible for rendering final agency decisions on requests for reconsideration of denials or designating another official to act in this capacity, if warranted.

0102. PROHIBITION AGAINST DISCRIMINATION.

The FLRA is committed to providing a workplace free of discrimination and harassment of any type, including discrimination and harassment based on disability. The need for reasonable accommodation shall not adversely affect an individual's consideration for employment, training, promotion, or opportunity to enjoy equal terms, benefits, privileges, or conditions of employment, including FLRA-supported social or recreational activities. Supervisors, managers, and others involved in the processing and implementation of requests for reasonable accommodation are expected to perform their

duties in a manner that fosters a professional and discrimination-free environment, and will be held accountable to maintain such an environment.

0103. PROCEDURES.

103.1. General Guidelines for Requesting Reasonable Accommodation.

A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition. A request does not have to use any special words, such as “reasonable accommodation,” “disability,” or “Rehabilitation Act.”

An individual with a disability may request a reasonable accommodation whenever s/he chooses, even if s/he has not previously disclosed the existence of a disability. Because the concept of reasonable accommodation centers on the needs of applicants and employees with disabilities, it is only within this context that a person’s disability may be considered. By contrast, consideration of a person’s disability that does not relate to elimination of workplace barriers affecting job performance or the enjoyment of equal employment opportunity is inappropriate.

Reasonable accommodations are addressed in three aspects of employment:

A. Recruitment/Application Process.

A reasonable accommodation is provided in the recruitment process to provide a qualified applicant with a disability an equal opportunity to be considered for the position for which the person applied.

B. Performance of the Essential Functions of a Job.

A reasonable accommodation is provided to enable a qualified person with a disability to perform the essential duties of the job being sought or currently held. This may include modifications or adjustments to the work environment and to the way duties are customarily performed.

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.

C. Receipt of all benefits of employment.

A reasonable accommodation is provided to enable an employee with a disability to enjoy benefits and privileges of employment equal to those enjoyed by other similarly situated employees without disabilities. This would include equal access to buildings, conferences, meetings, events, and services related to FLRA business.

103.2. Initiating a Request for Reasonable Accommodation.

A. Employee.

An employee may make a request for reasonable accommodation orally or in writing to her/his immediate supervisor or, in the supervisor's absence, to another supervisor or manager in the employee's chain of command. An employee may also make a request to any FLRA official designated to oversee the reasonable-accommodation process (RAC, HR Director, and Executive Director) or who is proposing to take a performance or conduct action. The request should indicate the specific form of accommodation requested and the basis for such accommodation. Where necessary, the employee may submit additional medical documentation to the RAC in support of the request.

B. Applicant for Employment.

The obligation to provide reasonable accommodation applies to all aspects of the hiring process, including the application and interview processes. All FLRA vacancy announcements must include a statement regarding reasonable accommodation available for applicants during the selection process. An applicant may make a request for reasonable accommodation orally or in writing to any FLRA employee with whom the applicant has contact or to the HR Specialist whose name and telephone number appear on the vacancy announcement. Although an applicant with a disability may request a reasonable accommodation at any time during the application process, the applicant should, to the greatest extent possible, make a request as soon as s/he is aware of a barrier in the process. Accommodation for the interview is the responsibility of the selecting official.

C. Family Member, Health Professional, Immediate Supervisor, or Other Representative.

A request made by such a person on behalf of an employee or applicant shall go to the same person to whom the employee or applicant would make the request. The request may be made orally or in writing. Where possible, the decision-maker should confirm with the person with a disability that s/he, in fact, wants a reasonable accommodation.

D. Reasonable Accommodation Request and Record Form.

To enable the FLRA to track the reasonable-accommodation process accurately and efficiently, all requests must be documented on the Reasonable Accommodation Request and Record form (Appendix A). This form may be used by the employee, applicant, or representative to initiate the request. If the request is made orally, the official receiving the request must complete the appropriate areas on the form. For applicants

seeking a reasonable accommodation, the HR Specialist handling the request must either give the applicant(s) the form to complete or complete the form on her/his behalf.

Regardless of who initiates the request, the official who receives the request is ultimately responsible for ensuring that the form is completed and for promptly forwarding a copy of the form to the RAC. While the Reasonable Accommodation Request and Record form should be completed as soon as possible, it is not a requirement for the request itself. The FLRA will begin processing the request as soon as it is made, whether or not the form has been completed. This form will also be used to document management approvals and denials of requested accommodations.

A Request for Reasonable Accommodation form is not required when an individual needs the same type of accommodation on a repeated basis (e.g., the assistance of sign language interpreters or readers). The form is required only for the first request for a given accommodation, but appropriate notice should be given, where practicable, each time the accommodation is needed.

103.3. Authority to Act on Requests.

The FLRA official responsible for rendering decisions on requests for reasonable accommodation shall be referred to as the “decision-maker” in this Instruction. The HR Director or her/his designee may serve as the decision-maker for any request. Other decision-makers are listed below and will handle the process as follows:

- A.** The HR Specialist who is assigned to the vacancy will handle requests for accommodation from applicants with disabilities in the application process.
- B.** The selecting official will handle requests for accommodations from applicants with disabilities for the interview process.
- C.** The immediate supervisor, or in her/his absence another official with supervisory/managerial responsibility in the employee’s chain of command, will handle requests for accommodation from employees with disabilities.
- D.** The proposing and/or deciding official for a disciplinary or adverse-action notice handles requests for accommodation from employees who have received a notice.
- E.** The RAC, within the HR Division, in consultation with the FLRA’s Public Health Service Medical Officer and other appropriate individuals, handles

requests for determinations as to whether or not applicants or employees requesting accommodation have a covered disability.

Note: All decision-makers must have designated back-ups to continue receiving, processing, and providing reasonable accommodations when the decision-maker is unavailable. Decision-makers should ensure that individuals know who has been designated as back up. The time frames discussed in Section 103.8, below, will not be suspended or extended because of the unavailability of a decision-maker.

103.4. Engaging in the Interactive Process.

Once the appropriate decision-maker receives a request for reasonable accommodation, the interactive process begins in order to determine what, if any, accommodation should be provided. Communication is a priority throughout the entire process. The decision-maker will explain to the applicant or employee that s/he will be rendering a decision on the request and describe what will happen during the processing of the request. This initial discussion should happen as soon as possible after a request for reasonable accommodation is presented by or on behalf of the employee.

When a third party makes a request for accommodation, the decision-maker should, if possible, confirm with the applicant or employee with a disability that s/he, in fact, wants a reasonable accommodation before proceeding. It may not be possible to confirm the request if the employee has, for example, been hospitalized in an acute condition. In this situation, the decision-maker will process the third party's request and will consult directly with the individual needing the accommodation as soon as it is practicable.

Ongoing communication is particularly important where: the specific limitation, problem, or barrier is unclear; an effective accommodation is not obvious; or the parties 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 decision-maker and requestor should communicate with each other to make sure that there is a full exchange of relevant information. The decision-maker will consult with the RAC and other appropriate officials during the course of the interactive process for advice and guidance. They may also utilize various resources to obtain additional information in rendering decisions on the request and appropriate accommodations.

103.5. Determining Whether the Individual Has a Disability.

A. General Evaluation Criteria.

Neither the statutes – the ADA and the Rehabilitation Act – nor the regulations promulgated under these statutes, list all diseases or conditions that make up “physical or mental impairments” because it would be

impossible to provide a comprehensive list, given the variety of possible impairments. An impairment is a “disability” under the ADA and, by extension, the Rehabilitation Act, only if it substantially limits one or more major life activities. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. An individual must be substantially limited in the ability to perform an activity compared to an average person in the general population.

The following factors must be considered in determining whether a person’s impairment substantially limits a major life activity:

- Its nature and severity;
- How long it will last or is expected to last; and
- Its permanent or long-term impact, or expected impact.

These factors must be considered because it is not generally the name of an impairment or a condition that determines whether a person qualifies for accommodation. Rather, it is the effect of an impairment or condition on the life of a particular person. Some impairments, such as blindness and deafness, are by their nature substantially limiting. But many other impairments may be disabling for some individuals, but not for others, depending on the impact on their life activities.

Whether an asserted impairment constitutes a disability is a determination that must be made on an individualized, case-by-case basis.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as: medication, medical supplies, equipment, or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics, including limbs and devices; hearing aid(s) and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; learned behavioral or adaptive neurological modifications; or psychotherapy, behavioral therapy, or physical therapy. However, the ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

B. Determining When Medical Information is Required.

The accommodation request shall be considered immediately, without the need for further medical documentation, if the individual has an obvious

disability or previously documented medical condition that qualifies her/him as an individual with a disability and the accommodation request is related to the known disability. For example, it may not be necessary for an employee who uses a wheelchair to submit medical information for the reasonable accommodation of raising an office desk or adjusting other furniture in the workspace. Likewise, medical information would not be required from a deaf applicant to have sign language interpreting services provided during an interview.

If the individual does not have an obvious disability or previously documented medical condition that qualifies her/him as an individual with a disability, s/he may be required to provide sufficient and reasonable documentation of her/his medical condition to the RAC, who will determine, in consultation with the Public Health Service Medical Officer, as necessary, whether the requestor is an individual with a disability. The RAC will request relevant supplemental medical information if: (1) the information submitted does not clearly explain the nature of the disability or need for reasonable accommodation; or (2) it does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or enjoy benefits and privileges of the workplace. In the case of an applicant, relevant supplemental medical information may be requested to determine the nature of the disability or how the accommodation will assist with the application process.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits the FLRA from requesting, requiring, or purchasing genetic information of an individual or family member of the individual, except as specifically allowed by the GINA. To comply with the GINA, the FLRA will not seek any genetic information about individuals or their family members and requests that individuals not provide any genetic information when responding to requests for medical information.

Not all information need be medical, as the appropriate information may be received from a social worker or vocational rehabilitation counselor. The documentation received must be sufficient for the RAC to determine whether the requestor is an individual with a disability. In order for appropriate and useful information to be obtained, all requests should describe the nature of the individual's job, the essential functions, and any other relevant information. The RAC and the decision-maker shall consult with the Public Health Service Medical Officer, when necessary, regarding the interpretation of medical documentation.

If, after a reasonable period of time, there is still not sufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, the RAC may request that a physician examine the individual, at the FLRA's expense. The GINA's general prohibition on the acquisition of genetic information, including family medical history, would apply to such an examination. A decision to undergo an

examination is voluntary on the part of the individual. The physician will advise the decision-maker of the individual's relevant medical condition and any additional relevant information about the individual's functional limitations. The failure to provide appropriate documentation or to cooperate in the FLRA's efforts to obtain such documentation can result in a denial of the reasonable accommodation.

103.6. Confidentiality of Medical Information.

Under the Rehabilitation Act, medical information obtained in connection with the reasonable-accommodation process must be kept confidential. Thus, all medical information, including information about functional limitations and reasonable-accommodation needs, that the FLRA obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's Official Personnel Folder (OPF). Medical documents shall be sealed, marked as "Confidential Medical Information," and maintained in secure storage by the RAC.

Under the GINA, the FLRA must maintain the confidentiality of any genetic information that it lawfully obtains about an individual or an individual's family member by keeping that information in a file separate from the individual's OPF. But the FLRA may maintain the genetic information in the same file in which it maintains other confidential medical information about the individual. If the FLRA receives genetic information orally, it need not reduce that information to writing, but it may not disclose that information unless permitted to under the GINA.

Any FLRA employee who obtains or receives such information is strictly bound by these confidentiality requirements. Confidentiality applies to all aspects of the reasonable-accommodation process. The HR Division is responsible for maintaining custody of all medical records obtained or created during the processing of a request for reasonable accommodation and will forward all requests for disclosure of the records to the Executive Director for response. All medical records will be maintained in accordance with the Privacy Act, and information regarding these records, or any aspect of the process, may be disclosed only as follows:

- Supervisors and managers who need to know may be told about the determination of eligibility as an individual with a disability, the necessary restrictions on the work or duties of the employee, and about any recommended accommodations. However, medical information will only be disclosed if strictly necessary.
- First aid and safety personnel may be provided specific medical information, when appropriate, if the disability might require emergency treatment.

- Government officials may be provided information necessary to investigate the FLRA's compliance with the Rehabilitation Act.
- Workers' Compensation offices or insurance carriers may receive medical information in certain circumstances, in accordance with EEOC regulations.
- A U.S. Public Health Service Medical Officer may receive medical information when the FLRA is consulting with her/him regarding the interpretation of medical documents.

Whenever information is disclosed, the individual disclosing the information will inform the recipient of the confidentiality requirements, as well as about the requirement to comply with applicable provisions of the Privacy Act. If there is a doubt as to whether to release such information, individuals must contact and obtain guidance from the RAC and the Executive Director before releasing such information. The violation of confidentiality requirements of reasonable-accommodation-medical information is a serious matter and may be grounds for disciplinary or adverse action.

103.7. Determining Agency Undue Hardship.

There is no duty to provide reasonable accommodation if the accommodation poses an undue hardship on the FLRA. A determination that a particular accommodation would impose an undue hardship must be based on a case-by-case analysis of current circumstances that shows that a particular accommodation would: cause significant difficulty or expense; be unduly extensive, substantial, or disruptive; or fundamentally alter the nature of FLRA operations. A claim of undue hardship based on fellow employees' fears or prejudices toward the individual's disability is impermissible. Nor can undue hardship be based on the fact that providing a reasonable accommodation might have a negative impact on the morale of other employees. However, undue hardship may be shown where an accommodation would be unduly disruptive to other employees' ability to work. The balance between an accommodation that is reasonable and an accommodation that would cause an undue hardship is usually dependent upon the resources available to the FLRA.

Factors used to make an assessment of undue hardship include:

- The type of FLRA operations, including the composition and structure of the workforce;
- The nature and net cost of the accommodation needed;
- The impact of the accommodation on the ability of other employees to perform their duties; and

- The impact on the FLRA's ability to conduct business.

Determining that a particular accommodation would result in undue hardship does not end the FLRA's obligation to provide accommodation. In this situation, it is necessary to determine whether other effective accommodations exist that could be provided and would not result in undue hardship.

103.8. Time Frames for Processing Requests.

Requests for reasonable accommodation must be processed and provided, where appropriate, in as short a time frame as reasonably possible. A request, whether oral or written and whether explicit or implicit, triggers the FLRA's time limits for processing and providing or denying an accommodation. Absent extenuating circumstances (see Section 103.9), the maximum time limits for processing requests for accommodation are as follows:

A. For Applicant Requests.

1. Normally, no more than 30 days from the date of receiving the request for accommodation, if the request relates to an applicant's participation in the hiring process, whether or not medical information is required.

B. For Employee Requests.

1. Normally, no more than 30 days from the date of receiving the request for accommodation, when the request does not require medical documentation and does not involve extenuating circumstances.
2. Normally, no more than 35 days from the date of receiving the request for accommodation, when the request requires medical documentation.
3. Normally, no more than 45 days from the date of receiving a request for accommodation that requires considering reassignment as a possible accommodation (see Section 104.9).

C. Expedited Requests.

In certain circumstances, a request for reasonable accommodation requires expedited review and decision in a time frame that is shorter than the above time frames. This includes where a reasonable accommodation is needed to enable an applicant to be considered for a job. Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for reasonable accommodation in order to ensure that an applicant with a disability has an equal opportunity to apply for a job. Therefore, the decision-maker, the RAC, and the HR Director need to make a decision as quickly as possible and, if appropriate, provide a reasonable accommodation. Expedited processing

would also be appropriate to enable an employee to attend a meeting scheduled to occur in the near future or when the employee is given short notice, such as an employee needing a sign language interpreter for a meeting scheduled to take place in 3 days. Other requests may also be appropriate for expedited processing.

103.9. Extenuating Circumstances.

Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. The following are examples of extenuating circumstances:

- There is an outstanding initial or follow-up request for medical information.
- The purchasing of equipment takes longer than desired.
- An accommodation involves the removal of architectural barriers.

Where extenuating circumstances are present, the decision-maker 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. In some situations, the decision-maker may provide temporary accommodation measures during this extended period (see Section 103.11).

103.10. Determination on Requests for Reasonable Accommodation.

A. Approvals.

As soon as a decision to provide a reasonable accommodation is made, the decision-maker shall complete the appropriate part in the Reasonable Accommodation Request and Record form detailing the specific accommodation(s) and the time frame for effecting the accommodation(s). If the accommodation cannot be provided immediately, the decision-maker must inform the requestor of the projected timeframe for providing the accommodation. The original form shall be provided to the requestor and copies retained by the decision-maker and the RAC.

B. Denials.

As soon as a decision to deny a request for reasonable accommodation is made, the decision-maker shall complete the appropriate part in the Reasonable Accommodation Request and Record form detailing the specific reasons for the denial, for example, why the accommodation would not be effective or why it would result in undue hardship. Where a specific requested accommodation was denied, but an offer of a different

one in its place is provided, the decision-maker will explain both the reasons for the denial of the requested accommodation and the reasons why s/he believes that the offered accommodation will be effective. The Reasonable Accommodation Request and Record form will also contain information regarding the requestor's rights in connection with the denial, including the availability of the alternative dispute resolution (ADR) and reconsideration processes within the FLRA, as well as the right to file an EEO complaint and the right to invoke other statutory processes, as appropriate. A request for ADR is not a request for reconsideration, and a request for reconsideration is not a request for ADR. But both processes may be requested simultaneously. And the use of the ADR and/or reconsideration process does not toll the time limit for filing an EEO complaint or invoking other statutory processes. The original form shall be provided to the requestor and copies retained by the decision-maker and the RAC.

1. ADR

A roster of ADR-trained specialists throughout the FLRA will be developed, to include employees in the Collaboration and Alternative Dispute Resolution Office, ADR specialists in the field, and appropriate employees in the Office of Administrative Law Judges and the Federal Service Impasses Panel. If the requestor wishes to participate in ADR, s/he must submit a written request to the decision-maker within 5 days of receipt of the denial notice. Within 5 days thereafter, a specialist (from outside the component in which the requestor works) will be requested to attempt resolution of the request for reasonable accommodation using ADR techniques. All reasonable efforts will be made to complete the ADR process within 30 days after the initial request for ADR.

2. Request for Reconsideration Within the FLRA.

If the requestor wishes reconsideration, s/he must submit a written request to the decision-maker within 5 days of receipt of the denial notice. The request may present additional information in support of her/his request. The decision-maker will issue her/his decision normally within 5 days on the Reasonable Accommodation Request and Record form.

If the decision-maker does not reverse the decision, the requestor may submit a written request for reconsideration to the Executive Director within 5 days of receipt of the decision-maker's denial of reconsideration. The Executive Director will issue her/his decision normally within 10 days on the Reasonable Accommodation Request and Record form. If the Executive Director acted as the decision-maker for the initial denial, then s/he will designate

another senior level official who is not under her/his authority to render the final agency decision on reconsideration.

3. EEO and other Statutory Claims.

The reconsideration process outlined above is in addition to statutory protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. Thus, employees may exercise any statutory rights to challenge the denial of a requested accommodation regardless of whether they have sought reconsideration. Employees may challenge the denial of a requested accommodation through the EEO-complaint process, which is described in FLRA Instruction 3700.1B. Denials of requested accommodations *also* are appealable to the Merit Systems Protection Board (MSPB), *but* only when they arise in connection with an action that is otherwise appealable to the MSPB.

The requirements governing the initiation of statutory claims, including time frames for filing such claims, remain unchanged.

- For an EEO complaint, the requestor must contact an EEO counselor within 45 calendar days from the date of receipt of the written notice of denial; and
- For an MSPB appeal, the requestor must file an appeal with the MSPB within 30 days of an appealable adverse action as detailed in 5 C.F.R. § 1201.3.

4. Re-evaluation of Existing Accommodation.

The re-evaluation process is intended to ensure that a previously granted accommodation is effective, remains appropriate, and is not causing an undue burden.

An employee previously granted a reasonable accommodation or a manager/supervisor within the employee's chain of command may request a re-evaluation of an existing accommodation at any time. The RAC may initiate a re-evaluation of an existing accommodation at any time and without the consent of the employee being accommodated.

The RAC is responsible for conducting re-evaluations of granted accommodations. Re-evaluations, whether initiated by the employee, the RAC, or another FLRA official, will follow the policies and procedures set forth within this Instruction for requesting reasonable accommodation. Before a re-evaluation is

conducted, the employee will be notified, in writing, of the planned re-evaluation.

Re-evaluation of an existing accommodation will not be initiated as a form of disciplinary action, retaliation, or reprisal.

6. An employee or applicant may decline to accept an accommodation that is offered by the FLRA. If this occurs, then the manager, supervisor, or other FLRA official should document the declination and provide a copy to the RAC.

103.11. Temporary Accommodation Measures.

If there is a delay in providing an accommodation that has been approved, the decision-maker must investigate whether or not temporary measures can be taken to assist the employee. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation on a temporary basis. For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the supervisor might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives.

If a delay is attributable to the need to obtain or evaluate medical documentation, and the decision-maker has not yet determined that the individual is entitled to an accommodation, an accommodation may also be provided on a temporary basis. In such a case, the decision-maker will notify the individual on the Reasonable Accommodation Request and Record form that the accommodation is being provided on a temporary basis pending a decision on the accommodation request. Decision-makers who approve such temporary measures are responsible for ensuring that they do not take the place of a permanent accommodation, and that all necessary steps to secure the permanent accommodation are being taken.

0104. TYPES OF REASONABLE ACCOMMODATION.

As each accommodation is determined on a case-by-case basis, decision-makers must consult with the RAC and other appropriate staff to ensure that an effective accommodation is adopted. The types of accommodations detailed below are not exhaustive; instead, they illustrate the broad spectrum of appropriate accommodations that may be provided to an employee or applicant.

104.1. Modifications of Worksite.

Facilities should be made readily accessible. Modifications may include, but are not limited to, arranging files or shelves for accessibility; raising or lowering equipment and work surfaces to provide suitable working heights; installing

special holding devices on seats, desks, or machines; and using Braille labels or other tactile cues for identification purposes.

104.2. Assistive Devices.

In determining whether the purchase of equipment and assistive devices should be authorized, consideration should be given to whether the device will enable the person with a disability to perform job-related tasks that s/he would otherwise be unable to carry out, and whether the major benefit would be an increase in the quantity, quality, or efficiency of the employee's work. Examples of assistive devices include a teletypewriter (TTY) or telephone amplifier to assist persons with hearing impairments and large-type computer terminals and Braille printers to assist persons with vision impairments. But the FLRA is not required to provide as reasonable accommodations personal-use items – such as prosthetic limbs, wheelchairs, eyeglasses, hearing aids, or similar devices – that are needed in accomplishing daily activities both on and off the job.

104.3. Readers, Interpreters, and Personal Assistants.

Under the provisions of 5 U.S.C. § 3102, the FLRA may employ, with or without pay, readers, interpreters, and personal assistants, or assign such assistance as may be necessary to enable the employee with a disability to perform her/his job, either at the regular duty station or while traveling on official business.

104.4. Flexible Leave Policies.

Decision-makers have authority to adopt flexible leave policies, subject to appropriate laws and regulations, that will accommodate employees with disabilities.

104.5. Modified or Part-Time Work Schedule.

Modified work schedules requiring change in arrival or departure times, periodic breaks, and part-time schedules are forms of accommodations. If a modified schedule is needed because of an employee's disability, and there is no other effective accommodation, a change in work schedule may be an effective accommodation unless it would impose an undue hardship.

104.6. Restructuring Jobs.

Job restructuring, involving assigning non-essential job functions that the employee cannot perform to other employees, or changing when or how a function, essential or non-essential, is performed, may be an appropriate accommodation if an employee is unable to perform job functions based on disability-related limitations.

104.7. Accommodations for Meetings, Conferences, Training, and Seminars.

The supervisor of an employee with a disability will arrange reasonable-accommodation needs for approved work-related events, whether held at the FLRA or at other locations, including the arrangement of transportation to and from the event site.

104.8. Work at Home.

Employees may work at home to accommodate a disability, provided that the duties may be performed away from the principal office without creating an undue burden on the organization, and the employee has the necessary resources to accomplish the work.

104.9. Reassignment.

Reassignment to a vacant position is a form of reasonable accommodation that may be provided, absent undue hardship, to an employee who, because of a disability, can no longer perform the essential functions of the position, with or without reasonable accommodation. Reassignment is a “last-resort” accommodation that must be considered if there is no other effective accommodation(s) that would enable the employee to perform the essential functions of the current job, or if all other possible accommodation(s) would impose an undue hardship on the organization. The following criteria apply to reassignments:

- The employee must be qualified - not necessarily the best qualified individual - for the vacant position. A position is considered vacant even if the FLRA has posted a notice or announcement seeking applicants for that position.
- If there is no vacancy at a comparable grade for which the employee is qualified, then the search should turn to lower-grade positions.
- Absent a position at the same grade or status, reassignment to the highest grade below the employee’s current position is required. Further efforts to accommodate are not required if these efforts are unsuccessful.

0105. LIMITATIONS ON THE OBLIGATION TO ACCOMMODATE.

The obligation to accommodate employees or applicants has limits. The law does not require:

- Changes or modifications that would cause an undue hardship;
- Accommodations for persons who are not qualified for the position in question;
- Elimination of legitimate selection criteria or essential job functions;
- Lowering standards - whether qualitative or quantitative - that are applied uniformly to employees with and without disabilities. However, the FLRA acknowledges that one of the principle purposes of reasonable accommodation is to enable an employee with a disability to perform the functions of her/his job to include meeting the quantitative and qualitative performance standards;
- Creating a new position as an accommodation, although the FLRA must consider reassignment to a vacant position that the individual is qualified to perform;
- Excusing a violation of uniformly applied conduct rules; or
- Monitoring medication because it is not a reasonable accommodation. The FLRA has no obligation to monitor medication because doing so does not remove a workplace barrier. Similarly, the FLRA has no responsibility to monitor an employee's medical treatment or ensure that s/he is receiving appropriate treatment because such treatment does not involve modifying workplace barriers. However, accommodations such as flexible leave policies or modified work schedules that enable an employee to take medications or obtain medical treatment relating to a disability may be appropriate. Accommodations may also be appropriate to address side effects caused by medication that an employee must take because of a disability and symptoms or related medical conditions resulting from a disability.
- Providing an employee with a new supervisor. The law may, however, require that supervisory methods be altered as a form of reasonable accommodation.

0106. REASONABLE ACCOMMODATION FOR ALCHOLISM AND DRUG ABUSE.

Under a provision set forth in the ADA that also applies under the Rehabilitation Act, "a qualified individual with a disability" does not include an individual who is currently engaging in illegal use of drugs. Thus, such individuals are **not** entitled to reasonable accommodation. By contrast, individuals who are no longer using drugs illegally and

who (1) are participating in a rehabilitation program or (2) have successfully completed a rehabilitation program are protected under the ADA and, by extension, the Rehabilitation Act. An example of reasonable accommodations that may be granted to individuals who have been rehabilitated or are undergoing rehabilitation would be measures that permit them to engage in self-help programs.

It is the policy of the FLRA that its workplace be free from the illegal use, possession, or distribution of controlled substances by its employees. See FLRA Instruction 3880.1A.

A person who is an alcoholic may be a “qualified individual with a disability” under the ADA and the Rehabilitation Act and may be entitled to reasonable accommodation. Employees who are alcoholics or who have engaged in drug use are required to meet the same standards of performance and conduct as other employees.

0107. FEDERAL INFORMATION TECHNOLOGY ACCESSIBILITY INITIATIVE.

In 1998, Congress amended the Rehabilitation Act of 1973 and strengthened the provisions covering access to information in the federal sector for people with disabilities. As amended, Section 508 of the Rehabilitation Act requires that when federal agencies develop, procure, maintain, or use electronic and information technology, they shall ensure that the electronic and information technology allows federal employees with disabilities to have access to and use of information and data that is comparable to the access to and use of information and data by federal employees who are not individuals with disabilities, unless an undue burden would be imposed on the agency. It also requires access for individuals with disabilities who are members of the public seeking information and services from a federal agency.

0108. RECORDS MANAGEMENT, RETENTION, AND DISPOSAL.

Records related to a particular individual’s accommodation request shall be kept until the employee separates from the FLRA. These records are confidential. They will be kept separate in a reasonable accommodation file and not in the employee’s OPF. The RAC will also maintain aggregate records of reasonable-accommodation activity, without individual identifiers, so that the FLRA may track performance relating to the provision of reasonable accommodation. These aggregate records will be kept for 3 years.

0109. PROGRAM EVALUATION.

The RAC or HR Director will prepare an annual report in January for the Executive Director on reasonable accommodation activity for the preceding year. The information contained in the report will be used solely for program review and evaluation purposes. The report will contain the following, presented in aggregate:

- The number of reasonable accommodations, by type, that have been requested in the application process, and whether those requests have been granted or denied;

- The positions (occupational series, grade level, and organization) for which reasonable accommodations have been requested and the types of accommodations requested for each of those positions;
- The number of reasonable accommodations, by type, for each position that have been approved and the number of accommodations, by type, that have been denied and the reasons for denial;
- The amount of time taken to process each request for reasonable accommodation; and
- The sources of technical assistance that have been consulted and/or used in trying to identify possible reasonable accommodations.

0110. EFFECTIVE DATE.

The policies addressed in this Instruction are effective immediately and replace any prior or conflicting FLRA policies addressing this topic.



Sarah Whittle Spooner
Executive Director

March 28, 2014

Date

APPENDIX A
Federal Labor Relations Authority
REASONABLE ACCOMMODATION REQUEST AND RECORD

PART I – GENERAL INFORMATION

Applicant/Employee Name (<i>Print</i>):	Position/Series/Grade:
Employee's Office:	Date of Request:
Name of Individual Initiating the Request if Other Than Applicant or Employee (<i>Print</i>):	Relationship of Individual Initiating the Request to the Applicant or Employee:

Type(s) of Accommodation Requested (*Be as specific as possible, e.g., adaptive equipment, reader, interpreter*):

Basis for Request (*When necessary, medical or other documentation in support of the accommodation may be submitted directly to the Reasonable Accommodation Coordinator. But, in accordance with the Genetic Information Nondiscrimination Act of 2008, do not provide "genetic information" as that term is defined in FLRA Instruction No. 3890 .1– Reasonable Accommodation for Individuals with Disabilities.*)

If accommodation is time sensitive, please explain.

 Signature of Applicant/Employee or Other Individual Completing Form

 Date of Submission

ACKNOWLEDGEMENT OF RECEIPT OF ORAL OR WRITTEN REQUEST:

 Name and Title of Decision-Maker (*Print*)

 Signature of Decision-Maker

 Date of Receipt

REASONABLE ACCOMMODATION REQUEST AND RECORD (continued)

PART II – DECISION-MAKER DETERMINATION (*Select one*)

- [] Request for reasonable accommodation approved in full. Describe the specific type(s) of accommodation(s) approved, means by which the accommodation(s) will be implemented, and the timeframe for implementation.
- [] Request for reasonable accommodation is approved in part. Describe the specific type(s) of accommodation(s) approved, means by which the accommodation(s) will be implemented, and the timeframe for implementation. Provide reason(s) why the other requested type(s) of accommodation(s) are not granted and identify alternative accommodations, if appropriate, and why they will be effective.
- [] A decision on reasonable accommodation is delayed. Specify the reason for the delay. Provide estimated timeframe for decision. Specify any temporary accommodation measures taken while the request is pending.
- [] Request for reasonable accommodation is denied. State the specific reason(s) why the requested accommodation(s) are ineffective or causes undue hardship.

Supporting Narrative (*Required*):

PART III – AVENUES OF REDRESS (*Information for applicant/employee whose request for reasonable accommodation has been denied*)

If you wish to request ADR of a denial, then you must submit a written request to the decision-maker within 5 days of receipt of the denial notice. Within 5 days, a specialist (from outside the component in which the requestor works) will be requested to attempt resolution of the request for reasonable accommodation using ADR techniques.

If you wish to request reconsideration of a denial (in part or in full) of your request for reasonable accommodation, then you may take the following steps:

1. Submit a written request to the decision-maker within 5 days of receipt of the denial notice. The request may present additional information in support of your request. The decision-maker will respond in writing to your request for reconsideration normally within 5 days.
2. If the decision-maker does not reverse her/his decision, then you may submit a written request for reconsideration to the Executive Director within 5 days of receipt of the decision-maker's denial of

REASONABLE ACCOMMODATION REQUEST AND RECORD (continued)

reconsideration. The Executive Director will issue her/his decision in writing, normally within 10 days of receipt of the request. If the Executive Director acted as the decision-maker for the initial denial, then s/he will designate another senior level official who is not under her/his authority to render the final agency decision on reconsideration.

A request for ADR is not a request for reconsideration, and a request for reconsideration is not a request for ADR. But both processes may be requested simultaneously.

Reconsideration procedures do not affect the time limits for initiating the following statutory claims:

1. For an EEO complaint, contact an EEO counselor within 45 days from the date of denial of reasonable accommodation;
2. Where the denial of a request results in an adverse action, initiate an appeal to the Merit Systems Protection Board within 30 days of an appealable adverse action, as defined in 5 C.F.R. § 1201.3.

PART IV – ACKNOWLEDGEMENTS

Name and Title of Decision-Maker (*Print*)

Signature of Decision-Maker

Date

Signature of Applicant/Employee

Date

(The applicant/employee's signature acknowledges only the receipt of the form and does not void one's reconsideration, statutory, or collective-bargaining appeal rights).

REASONABLE ACCOMMODATION REQUEST AND RECORD (continued)

PART V – RECONSIDERATION DETERMINATION

(To be completed by the Decision-Maker and Executive Director or designee)

Decision-Maker's Determination *(Specify reasons for sustaining the initial decision or changes to the initial decision and the basis for the decision).*

Name and Title of Decision-Maker *(Print)*

Signature

Date

Second-Level Determination *(Specify reasons for sustaining the Decision-Maker's determination or changes to the initial decision and the basis for the decision).*

Name and Title of Official *(Print)*

Signature

Date

Signature of Applicant/Employee

Date

(The signature of the applicant/employee acknowledges only the receipt of the form and does not void one's statutory or collective-bargaining-appeal rights).

cc: Reasonable Accommodation Coordinator