

Procedures for Providing Reasonable Accommodation for Individuals with Disabilities

**FORMS OF REASONABLE ACCOMMODATION**

This section provides an overview of some generic accommodation options used successfully in a variety of situations.

1. **Restructuring Jobs** - A job may be modified so that a person with disabilities can perform those essential functions of a position. It is first necessary to identify those tasks that may be difficult for an individual to accomplish because of a disability. The tasks should then be analyzed to identify those factors which specifically make it difficult for the person with disabilities to effectively accomplish the job. These factors should be eliminated by changing the job contents; eliminating nonessential elements; re-delegating assignments; exchanging assignments with other employees; redesigning procedures for task accomplishment; or, in the case of non-probationary employees, reassignment to another position.
  
2. **Modifying Worksites** - Changes may be needed in the worksite area when there is an employee with disabilities. This may include accessibility to and around the work area, restrooms and other facilities used by the employee. Adjustments may be as simple as:

- Widening access areas between fixtures to allow room for wheelchairs and maintaining hazard-free pathways for sight or mobility impaired employees; Raising or lowering equipment to provide required working heights;
- Rearranging files or shelves for accessibility to wheelchair users;
- Moving equipment controls to one side or another or modifying them for hand or foot operation;
- Installing special holding devices on desks, machines, or benches;
- Placing Braille labels on shelves so sight impaired employees can identify contents;
- Installing telecommunication devices or telephone amplifiers for persons who are hearing impaired;
- Providing a speaker telephone or an extension arm or goose-neck to hold a phone receiver; and

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**FORMS OF REASONABLE ACCOMMODATION (Cont'd)**

**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**

- Providing special heating or air conditioning units for persons whose disabilities make them sensitive to environmental temperatures.

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**3. Accessible Facilities** - Under Section 504 of the Rehabilitation Act of 1973, as amended, all Federal agencies must ensure that their programs and activities are accessible to persons with disabilities. This does not mean that every element of every Federal facility has to be fully accessible. Rather, it means that agencies must take necessary steps to make all of their programs accessible to persons with disabilities. Additionally, agencies may have to eliminate architectural barriers as a matter of reasonable accommodation to an individual employee or applicant under Section 501 of the Rehabilitation Act of 1973, as amended. Eliminating architectural barriers through such means as ramps, wider doorways, elevators, work platforms, and handrails often make the work facility more usable by all employees, not just those with disabilities.

**4. Adjusting Work Schedules** - Some individuals with disabilities are denied employment opportunities because they cannot meet the requirements of a standard 40-hour work-week. For these individuals, accommodations can be made as follows:

- Eligible employees requiring medical treatment may use one of the alternative work schedules (flex-time, credit hours, and compressed work schedules) to accommodate their work needs;
- Employees who need rest periods can have their schedules adjusted to make up the time at the beginning or end of the work day; or
- Employees with mobility impairments who find it difficult to use public transportation during peak/rush hours, yet need to work a regular schedule can be allowed to do so even though others holding comparable jobs are required to work different tours of duty.

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**FORMS OF REASONABLE ACCOMMODATION (cont'd)**

**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**

5. **Flexible Leave Policies** - The Department's Alternative Work Schedules Programs may be used to accommodate employees with disabilities. For example, under the Flexi-time Program, an employee may use different arrival/departure times on a daily basis or earn credit hours to use in lieu of annual or sick leave to accommodate medical appointments. The use of Alternative Work Schedules requires the interpretation of excused absences, administrative leave, sick leave, and leave without pay. Leave policies may also include granting extended leave without pay for illness or disability. Persons with disabilities may also qualify for leave under the Family and Medical Leave Act. Other examples of flexible leave policies are as follows: (see HUD Handbook 600.1 REV-3, Hours of Duty, Absence, and Leave for specific policy guidance on establishing and/or changing work schedules).

a. **Excused Absence With Pay**

- (1) **Training on Duty Time.** A normal duty time absence may be granted when an employee with a disability must attend training on a job-related assistive device, such as a closed circuit magnification system which enlarges the size of printed material, or a paperless braille machine which converts printed images to tactile cues for blind and severely visually impaired persons.
- (2) **Inclement Weather.** In inclement weather, it is impossible for certain employees with disabilities to report to work on time, or to report to work at all, even though HUD offices are officially open. For example, a mobility impaired employee may be unable to maneuver on ice; visually impaired persons are often affected by snow and ice due to the muffling of sound and the inability to use a cane properly; and persons with heart conditions and respiratory problems also have difficulty if they must walk long distances to get to public transportation. When a mobility impaired employee is assigned to a supervisor (and in the event of inclement weather), the supervisor should immediately consult the employee to determine how the employee usually gets to and from work and how adverse weather conditions affect their commuting.
- (3) **Temporary Adverse Worksite Conditions.** Excused absences (annual or administrative leave) may be granted when temporary building conditions, such as extreme heat or cold, fumes from spraying, etc., adversely affect persons with neurological disorders or respiratory ailments and temporary relocation is not an option.

**FORMS OF REASONABLE ACCOMMODATION (cont'd)**

**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**

- b. **Extended Leave Without Pay.** Extended leave without pay may be granted with the appropriate medical documentation for treatment of a medical limitation/condition and for retraining of an employee who becomes disabled.
  - c. **Annual or Administrative Leave.** As with all employees, managers and supervisors may grant annual leave or give administrative leave for meetings or conventions where it can reasonably be expected that attendance would increase an employee's knowledge, skills, abilities, or potential regardless of their medical limitation/condition.
  - d. **Sick Leave.** An individual who uses prosthetic devices such as a wheel chair, crutches, a guide dog, or other similar systems should be allowed to use reasonable amounts of sick leave for equipment repair, guide dog and/or cane training, or medical treatment. The Office of Personnel Management (OPM) considers an assistive device, or a guide dog, to be an extension of the body.
6. **Providing Equipment** - Through new technologies, numerous assistive devices are available to aid individuals with disabilities. As a general rule, HUD will purchase equipment if it is determined that:
- the use of the equipment is necessary for transaction of the official business of the Department;
  - its purchase does not create an undue hardship to the Department; and
  - the equipment is not a personal item that the employee could reasonably be expected to provide.

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Such equipment becomes the property of HUD. Equipment will not be purchased simply for an individual's convenience.

Equipment cannot be of a personal nature such as eyeglasses, wheelchairs, prosthetic limbs or similar devices, and must be directly related to the performance of the job. Before purchasing any equipment, the employee must be consulted to determine what is needed and/or wanted. In many cases, the person may have adapted to their medical limitation/condition in such a way

**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**

**FORMS OF REASONABLE ACCOMMODATION (cont'd)**

that no specialized equipment is necessary. When making authorization decisions, consideration should be given to how well the employee would perform without the equipment or device. Would the employee's performance improve, and be more efficient and effective, with the equipment?

**Specific examples of specialized equipment that may be provided, if warranted, by particular job duties :**

- a. **Persons who are visually impaired:** additional lighting; lamps; magnifiers; illuminated magnifiers; closed circuit television magnifiers; and large print systems for computers and word processors.
- b. **Persons who are legally or totally blind:** braille writers; braille paper; tape recorders; dictating equipment; electronic correcting typewriters; talking calculators; light-sensitive probes; paperless braille devices; and talking computerized devices.
- c. **Persons who are deaf or hearing impaired:** telephone amplifying devices; portable or stationary telecommunication devices (TDDs); lights that flash as an alarm system; and/or vibrating beepers.
- d. **Persons who are orthopedically disabled:** adjustable office chairs; custom desks; speaker phones for those who cannot use a handset; dictating equipment for those who cannot type or write longhand; and electric staplers, electric pencil sharpeners, electric date stamps, etc., for persons with limited strength.

**7. Providing Readers, Interpreters, and Personal Assistants**

- a. **Readers for Persons Who are Blind or Vision Impaired:** When a reader is assigned to provide reading assistance to a specific blind or severely visually impaired employee, the employee should be involved in the selection process, since the reader and employee must be compatible. Providing reading assistance to an employee in no way relieves HUD of its responsibility to provide secretarial, clerical and/or stenographic assistance to that employee in those instances where the employee's position requires or entitles such

**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**

**FORMS OF REASONABLE ACCOMMODATION (cont'd)**

assistance. In most instances, the same person will be providing reading, clerical, secretarial, and/or stenographic assistance to the employee. Also, you may contact organizations for the visually impaired/blind which provide volunteer readers. The Disability Program Manager shall monitor the performance of readers/interpreters, in consultation with the individual with the disability and the individual's manager and supervisor, to ensure their effectiveness. As appropriate, the Disability Program Manager will take immediate action to address any deficiencies and to replace readers/interpreters as deemed necessary.

- b. **Interpreters for Persons with Hearing Impairments:** HUD will utilize contract interpreters to provide communication services for deaf or hearing-impaired employees.
  - c. **Personal Assistants for Persons with Disabilities:** The need for assistant services varies among severely physically disabled persons depending on the individual's circumstances. If an employee's disability is so severe that they need assistance during meals, arranging work materials, or transferring from a wheelchair to a taxi or other modes of transportation, a personal assistant may be required to provide such assistance.
8. **Meetings, Conferences, Seminars, and Training Programs** - All HUD meetings, conferences, seminars, and training programs held either in public or private facilities must be accessible to individuals with disabilities. Accessibility means access both to facilities and to programs and services so that individuals with sensory and mobility impairments can participate. In addition to accessible facilities, all programs will be made accessible to deaf or hearing-impaired persons through an interpreter and to blind persons through a reader or Braille or taped materials. Managers and supervisors are responsible for assuring that all their employees can equally participate in office functions (e.g., staff meetings, training, awards ceremonies, etc.). No employee should be denied opportunities to participate in such activities solely because they are disabled unless an undue hardship can be demonstrated by the agency.

**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**

**FORMS OF REASONABLE ACCOMMODATION (cont'd)**

9. **Alternative Format Materials** - Federal agencies must provide alternative format materials or other auxiliary aids and services that will allow persons with disabilities who have vision impairments full access to written materials used in the course of their employment, including such things as employee manuals and leave and earning statements. Alternative formats include Braille, large print, audiocassette recordings, and electronic copies on computer disks.
10. **Reassignment** - In cases of current employees who develop disabilities during their **employment**, or whose disabilities are aggravated during their careers, managers and supervisors have a responsibility to make a concerted effort for their continued employment. Reassignment is the last resort and is required *only* after it has been determined that: (1) there are no effective accommodations that will enable the employee to perform the essential functions of his/her current position, and (2) all other accommodations would impose an undue hardship. The Department must consider reassignment as a reasonable accommodation when an employee, due to a disability, can no longer continue performing the essential function of his/her position, even with reasonable accommodation. The Disability Program Manager, in coordination with the affected managers and supervisors, shall look for a vacant position that is equivalent to the employee's current position in terms of a number of factors, including grade, level of work assignments, pay, benefits, and geographical location. If no equivalent vacant position exists, then the DPM in coordination with affected managers and supervisors must look for a lower position that is as close as possible to the employee's current position. Although this is a non-competitive process, the employee must be qualified for the vacant position. The employee is deemed qualified if s/he satisfies the requisite skill, experience, education, and other job related requirements of the vacant position and can perform the essential functions of the position with or without reasonable accommodation. There is no requirement that a new position be established to accommodate an employee with a disability. HUD's reassignment<sup>2</sup> responsibilities involve only existing positions.

Under OPM's disability retirement procedures, reassignment must be considered whenever an employee seeks disability retirement. The agency must demonstrate that efforts were made to reassign the employee to a vacant position at the same grade or pay within the commuting area. While the disability retirement regulations limit reassignment only to the commuting area, no such specific limitations pertain to reassignment for reasonable accommodation. It is appropriate to consider vacancies that may exist in other offices, particularly for persons in

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<sup>2</sup> The Court's April 29, 2002 decision in *U.S. Airways, Inc. v. Barnett*, 2002 WL 737494 (U.S.) which held, "An employer's showing that a requested accommodation conflicts with seniority rules is ordinarily sufficient to show, as a matter of law, that an accommodation is not reasonable. However, the employee remains free to present evidence of special circumstances that makes a seniority rule exception reasonable in the particular case."

**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**

**FORMS OF REASONABLE ACCOMMODATION (cont'd)**

higher-graded positions, if they are willing to voluntarily relocate. The cost of a permanent change of duty station move will usually be at the employee's expense (hardship transfer, etc.), unless it is advantageous to the agency. The Office of Human Resources must approve all reassignments. The Human Resource Specialist who will conduct the search for an available vacant position will vary depending on their assigned organizational area of responsibility. Notwithstanding, the servicing Human Resource Specialist will consult with the Disability Program Manager and/or the requesting employee's supervisor on available positions and with the employee, as necessary, to determine whether there are limits on the search for vacancies, whether the employee is qualified for a particular job, or whether the employee would need reasonable accommodation to perform the essential functions of the vacant position.

- 11. Accommodations for Persons With Learning Disabilities** - According to the most widely used definition (as stated in Public Law 94-142, The Education for all Handicapped Children Act), a learning disability is a disorder in one or more of the basic processes in using spoken or written language in the presence of normal or above-average intelligence. The disorder may manifest itself in problems relating to learning, thinking, speaking, reading, writing, spelling, or doing mathematical calculations.

Management has a responsibility to ensure that persons with learning disabilities are provided every opportunity to take full advantage of training needed to meet their career development goals. A learning disability is an invisible disability. Managers and supervisors may not be aware that persons with learning disabilities may require special attention and services to reasonably accommodate their impairments. However, as with any person with a disability, it is the person's responsibility to request a reasonable accommodation. Accommodation is necessary to assure that persons with learning disabilities are provided an opportunity to contribute productively and to receive meaningful training.

Procedures for Providing Reasonable Accommodation for Individuals with Disabilities

FORMS OF REASONABLE ACCOMMODATION (cont'd)

THE FOLLOWING GUIDANCE DISCUSSES THE MAJOR TYPES OF LEARNING DISABILITIES AND SUGGESTS TYPES OF ACCOMMODATIONS:

- a. **Visual.** Many people with visual perceptual problems have difficulty with accuracy, such as reversing numbers and placing words in the wrong spaces on a form. Therefore, people with this learning disability may need their material thoroughly checked for grammar and/or word or number reversals.
- b. **Auditory.** People with auditory perceptual problems often need to work in quiet surroundings. Many people with this learning disability may request that directions be clarified or repeated. In this case, either a written copy of instructions or repeating the instructions may be helpful. It helps to use short sentences, and to enunciate clearly, and when possible, demonstrate the task.
- c. **Motor.** People with motor problems have trouble moving their bodies efficiently to achieve a certain goal. Their brains have difficulty telling their bodies what to do. The result is clumsiness and difficulty in working with their hands. The three types of motor problems are: (1) perceptual - difficulty in performing a task requiring coordination; (2) visual - problems seeing something and then doing it with the hands (e.g. copying or learning to do movements by watching someone else); and (3) auditory - problems hearing something and then doing it with the hands (e.g. following oral instructions or taking notes). For the most part, these people will require accommodations needed by persons with perceptual, visual, and auditory problems. The key is to be flexible and open to new ways of doing things.
- d. **Tactile.** People who have difficulty taking information in through the sense of touch may have tactile perceptual problems. They may not like being touched by others and may prefer to work alone. If a person has difficulty feeling the difference between two similar objects, they may have tactile discrimination problems. This person may have trouble assembling or judging the right amount of pressure needed to bend and twist a plastic wire without breaking it. Thus, a situation that will not require these tactile distinctions is desirable.

**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**

**FORMS OF REASONABLE ACCOMMODATION (cont'd)**

- e. **Academic.** Dyslexia, which refers to certain difficulties in learning to read, is one of the best-known learning disabilities. Those with severe dyslexia and who have never received remediation may not read at all, or read with great difficulty. Some persons with dyslexia are able to train themselves to read fairly well, while others prefer to take notes or use a tape recorder. Other learning disabilities classified as academic difficulties include: Dysgraphia, the inability to write, and Dyscalculia, the inability to do mathematics.

Reasonable accommodations in the above conditions require little or no expense, but rather a degree of sensitivity and patience and a sense of responsibility on the part of the supervisor and the individual with the learning disability.

12. **Accommodations for Persons With Mental or Emotional Illness** - Employees undergoing treatment for mental or emotional illness should be given assistance similar to those employees who are abusing or addicted to alcohol. Persons who do not participate in an Employee Assistance Program (EAP), but are seeking treatment of a mental or emotional illness is also to be accommodated. These accommodations can be made through the use of alternative work schedules, workload adjustments, established leave provisions or physical changes or equipment. When managers/supervisors have to decide on an accommodation for an employee who is mentally restored, they should consult with the employee, EAP Coordinator, and the Employee Relations staff before a final decision is made on the type of accommodation. Examples of mental or emotional illness include, but are not limited to, major depression, bipolar disorder, anxiety disorders (which include panic disorder, obsessive compulsive disorder and post-traumatic stress disorder), schizophrenia, and personality disorders.
13. **Accommodations for Alcoholics** - Alcoholics have been determined to be individuals with disabilities for purposes of reasonable accommodation. The Department also has an obligation, under Part 5 CFR 792.101-105, where an employee has a possible alcohol problem that affects work performance to assist the employee by providing an opportunity for the employee to find treatment before disciplinary action is taken (see HUD Handbook 792.2 REV-2, Employee Assistance Program). Under the EAP, employees are given a reasonable chance to successfully rehabilitate themselves for alcohol abuse/addiction through hospitalization for detoxification,

**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**

**FORMS OF REASONABLE ACCOMMODATION (cont'd)**

inpatient, and/or outpatient treatment, aftercare, ongoing support through various support groups, or whatever combination is deemed appropriate by medical and other qualified professional personnel. Employee participation in the EAP is voluntary and should not be denied to employees who are willing to enter these programs. Managers should allow the employee to participate in the EAP and return to work to demonstrate acceptable performance, conduct, and/or attendance. Any recurrence of the earlier problems after all accommodations have been made, or the employee's unwillingness to participate in the EAP, will be handled through the personnel procedures for adverse action.

- 14. Accommodations for Persons who have Human Immune Deficiency Virus (HIV)/AIDS** - Employees with HIV/AIDS should be allowed to continue to work, as long as they are able to maintain an acceptable level of performance, and do not pose a health or safety risk for themselves or others.

Reasonable accommodation will be made as long as the affected employee is able to perform the essential functions of his/her position with such accommodations. With respect to job restructuring, details, reassignments, or other changes in position for employees diagnosed with AIDS, any accommodations made will be done in the same manner as they would for any other employee whose medical conditions affect job performance. Also, any employee with AIDS or any of its related conditions may request sick leave, annual leave, or leave without pay to pursue medical care or to recuperate from the effects of his/her medical conditions. Available medical documentation will be reviewed and any determinations to grant or deny leave should be made in accordance with HUD leave policy and negotiated labor agreements.

- 15. Accommodations for Persons who are Drug Users** - Individuals currently using illegal drugs are not qualified individuals with disabilities and, therefore, are not entitled to reasonable accommodation. However, this does not exclude an individual who:

- has successfully completed a supervised drug rehabilitation program and is no longer using illegal drugs or has other-wise been rehabilitated successfully and is no longer using illegal drugs; or
- is participating in a supervised rehabilitation program and is no longer using illegal drugs; or
- is erroneously regarded as using illegal drugs, but is not engaging in such use.

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**Procedures for Providing Reasonable Accommodation for Individuals with Disabilities**