

**DEA'S PROCEDURES FOR
PROCESSING REQUESTS FOR
REASONABLE ACCOMMODATION
MADE BY EMPLOYEES AND JOB
APPLICANTS WITH DISABILITIES**

TABLE OF CONTENTS

CHAPTER 1. GENERAL	4-6
CHAPTER 2. INITIATING THE REASONABLE ACCOMMODATION REQUEST	6-9
CHAPTER 3. PROCESSING ACCOMMODATION REQUESTS.....	9-13
CHAPTER 4. TIME FRAMES FOR PROCESSING REQUESTS AND PROVIDING REASONABLE ACCOMMODATIONS	13-15
CHAPTER 5. MEDICAL INFORMATION	15-17
CHAPTER 6. INFORMATION GATHERING AND REPORTING	16
CHAPTER 7. CONFIDENTIALITY REQUIREMENTS	17-18
CHAPTER 8. DECISIONS REGARDING ACCOMMODATION REQUESTS.....	18-20
CHAPTER 9. RECONSIDERATION AND RESOLUTION OF DISPUTES CONCERNING A DENIED REQUEST FOR REASONABLE ACCOMMODATION	20
CHAPTER 10. DEFINITIONS	21-22
CHAPTER 11. ADDITIONAL INFORMATION.....	22

CHAPTER 1. GENERAL

1-1. PURPOSE: These new Procedures are consistent with Executive Order 13164, which requires each Federal agency to establish effective written procedures for processing requests for reasonable accommodation by its employees and job applicants with disabilities. Further, they assist the DEA in fulfilling its obligation to provide reasonable accommodations pursuant to the Rehabilitation Act of 1973, as amended. The Procedures are intended to provide a framework under which the DEA will process reasonable accommodation requests. These Procedures are not intended to include or restate all applicable laws, regulations, Executive Orders, directives, policy statements, or binding legal precedents that set forth the substantive requirements governing such requests or that may affect the processing of such requests, and should be implemented in a manner consistent with such authorities.

1-2. SCOPE: These written procedures apply to all organizational components of the DEA and all requests for reasonable accommodation made by or on behalf of DEA employees with disabilities and applicants for employment with disabilities. The concept of reasonable accommodation applies to all aspects of employment, including recruitment, training, promotion, reassignment and rotational assignments, as well as the benefits and privileges of employment.

1-3. RESPONSIBILITIES:

a. DEA Equal Employment Opportunity Office (EEO). DEA's EEO Office will provide policy guidance and oversee compliance with these Procedures. The Disability Program Manager (DPM) in the EEO Office shall provide advice and assistance to supervisors, managers, and employees regarding reasonable accommodation and other disability matters; maintain and submit timely and complete reports, as required; and facilitate management training.

b. Accommodation Coordinators (ACs). DEA has appointed employees to act as an Accommodation Coordinator (AC) at every field division, foreign regional office and laboratory, to include the Special Operations Division, the Office of Training, the Aviation Division, and the El Paso Intelligence Center. Generally, the Administrative Officer will be the AC for each office. However, the EEO Office DPM will serve as the AC for Headquarters' offices, including DEA offices in Lorton and Sterling, Virginia. The EEO Office DPM will also serve as the

alternate AC for divisions, foreign offices, or laboratories in the event that a designated AC in another office (1) is unavailable, (2) is the employee requesting the accommodation, or (3) is in the supervisory chain of command of the employee requesting the accommodation. The role of the AC is to ensure that employees and managers are aware of these Procedures and all other applicable policies and procedures and understand their obligations under them. The AC has the ultimate responsibility for assisting employees and supervisors in accepting and processing requests for accommodation in his or her division, office or laboratory. The AC is not responsible for determining whether to grant or deny requests for reasonable accommodations, which responsibility rests with the appropriate supervisors/decision makers. A current list of the ACs in each division, office or laboratory can be found on the EEO website on Webster.

c. Human Resources Division, Health Services Unit (HRLH). The Health Service Unit of the Human Resources Division is responsible for providing advice and guidance to supervisors, managers, and employees within their respective organizations concerning medical issues relating to reasonable accommodation requests.

d. Human Resources Division (HR). HR is responsible for addressing, along with selecting officials, if appropriate, reasonable accommodation requests related to recruitment actions. The HR office will serve as the deciding office on requests for reasonable accommodation from job applicants with disabilities. HR offices will also assist decision makers in locating appropriate vacant positions for employees with disabilities who have requested reassignment as a reasonable accommodation.

e. Office of Chief Counsel (CC). DEA's Office of Chief Counsel is responsible for providing advice and guidance to supervisors, managers, Accommodation Coordinators, HR and the EEO Office on legal aspects of the accommodation process, such as the determination of whether an individual is a qualified individual with a disability, as defined by the Rehabilitation Act.

f. Supervisors/Decision Makers. The individual who is responsible for making the decision regarding a request for reasonable accommodation will be referred to as the "decision maker." Decisions on requests for reasonable accommodation will always be made in the division, office or laboratory where the requesting employee works, by the individual or individuals designated to do so by the head of that division, office or laboratory. Decisions

should generally be made at the lowest possible organizational level within the division, office or laboratory. An employee's direct supervisor is generally presumed to be the decision-maker unless the employee's office head has designated another individual to be the decision-maker. Decisions regarding reasonable accommodations for job applicants shall be made by the senior HR Manager responsible for servicing the vacancy. The supervisor/decision maker is responsible for conducting the entire reasonable accommodation process, as set forth in Chapter 3, below, with assistance from the Accommodation Coordinator, the EEO DPM, HRE, and the Office of Chief Counsel.

g. Employees/Applicants. To be eligible for reasonable accommodation, in general, a person with a disability must be qualified to perform the essential functions of the position, with or without reasonable accommodation, and the accommodation request must not cause undue hardship to DEA. An employee with a disability who needs a reasonable accommodation must make his or her needs known to his or her immediate supervisor, another supervisor in the employee's chain of command, or the EEO DPM. Applicants may direct requests for accommodation in the hiring process to any DEA employee the applicant has contact with in an official connection with the application process. An individual with a disability may be required to demonstrate, through medical or other documentation that he or she has a disability and how the disability impacts essential job functions, the ability to participate in the job application process, or the ability to enjoy the benefits and privileges of employment.

1-4. DISTRIBUTION: Complete copies of these Procedures will be posted on DEA EEO Office's intranet and internet sites and will be available, upon request, from the EEO Office. Copies shall be made available in alternate formats upon request.

CHAPTER 2. INITIATING THE REASONABLE ACCOMMODATION REQUEST

2-1. INTRODUCTION: 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 physical or mental impairment. There is no requirement that a request include special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act."

2-2. INITIATING A REQUEST: An employee or job applicant may initiate a request for reasonable accommodation orally or in writing. For purposes of these Procedures, oral communication includes communication through a sign language interpreter, via telephone, or via TTY (including relay services); written communication includes communication via email. An employee or job applicant may also request a reasonable accommodation through a family member, health professional, or other designated representative.

2-3. TIMING OF REQUESTS: An individual with a disability may request reasonable accommodation whenever he or she chooses, even if he or she has not previously disclosed the existence of a disability.

2-4. WHERE TO DIRECT REQUESTS: In order to minimize delays, employees should direct requests for reasonable accommodations to the employee's direct supervisor, to a supervisor in the employee's chain of command and/or to the Accommodation Coordinator designated to process requests for reasonable accommodation by the employee's office. In addition to the employee's immediate supervisor, supervisors in the employee's chain of command and the Accommodation Coordinator, requests may also be made to the EEO Office's DPM. Requests made to anyone other than the Accommodation Coordinator, the employee's supervisory chain of command or the EEO DPM must be referred to the Accommodation Coordinator for that office, and, therefore, may result in some delay.

Applicants may direct requests for accommodation in the hiring process to any DEA employee the applicant has contact with in official connection with the application process. If requests are made to DEA employees who are not part of the HR staff that is handling the vacancy, the request will be forwarded to the designated HR decision maker.

2-5. RESPONSIBILITY FOR DESIGNATING SURROGATES: When a decision maker will be unavailable to handle requests for reasonable accommodation within applicable time

frames, he or she is responsible for ensuring that an appropriate surrogate has been designated to handle accommodation requests in his or her absence. Established time frames will not be suspended due to the unavailability of a principal decision maker.

When an Accommodation Coordinator will be unavailable, or has a conflict of interest to handle a particular request for reasonable accommodation within applicable time frames, the EEO Office DPM will act as the Accommodation Coordinator for the request.

2-6. REFERRING INITIAL REQUESTS: To ensure that requests are processed in a timely manner, any individual who receives a request for a reasonable accommodation, including the individuals designated to receive requests pursuant to Section 2-4, above, shall refer the request to the appropriate decision maker as quickly as possible, but usually within two (2) business days from the date that the individual receives the request. Every effort should be made to prevent any delay during this part of the process. The EEO DPM will provide assistance in identifying the appropriate decision-maker.

2-7. WRITTEN CONFIRMATION POLICY: To enable DEA to keep accurate records of requests, employees and applicants seeking reasonable accommodation must follow up an oral request by confirming that request in writing. Completing [DOJ Form 100A](#) (also found on DEA's EEO Website) will satisfy the written confirmation requirement. Unless otherwise instructed, employees should direct written confirmation to the Accommodation Coordinator, anyone in the employee's supervisory chain of command, or the EEO DPM. The Accommodation Coordinator is responsible for assisting the employee in providing written confirmation. Applicants will be told where to direct a written confirmation by the HR Specialist responsible for the vacancy. Parties responsible for processing requests may not wait for written confirmation before considering a request. If an individual with a disability requires assistance with the written request requirement, the staff member receiving the request will provide or arrange for assistance. If a reasonable accommodation is required on a repeated basis (for example, sign language interpreters), a written request is generally only required the first time services are requested.

2-8. THE REQUEST BEGINS THE PROCESS: The reasonable accommodation process and all time limitations established in these Procedures begin as soon as a request for accommodation is received by the appropriate individual, as set forth in Section 2-4, above, whether in writing or orally, and may not be delayed pending written confirmation. Oral requests shall be deemed received when made. Written requests shall be deemed received when actually received by the assigned Accommodation Coordinator, by anyone in the employee's supervisory chain of command, the EEO DPM, or the designated HR decision-maker for requests made by applicants. If a request is made to someone other than the individuals designated in Section 2-4, the time limits begin to run as soon as a designated individual receives the request.

CHAPTER 3. PROCESSING ACCOMMODATION REQUESTS

3-1. GENERAL: The reasonable accommodation process must be a cooperative, interactive process that involves the individual requesting the accommodation, the person who is responsible for making decisions concerning accommodations and the Accommodation Coordinator. Decisions on requests for accommodation must be made on a case-by-case basis, and must not be based on stereotypes regarding various disabilities.

3-2. RESPONSIBILITY FOR PROCESSING REQUESTS AND MAKING DECISIONS:

Each Division, foreign office, laboratory or other office that has a designated Accommodation Coordinator, through its designated decision-maker(s), is responsible for accepting, processing, and determining whether to grant or deny requests for reasonable accommodations from its employees. The decision-makers are required to inform the Office Head before denying any request for accommodation and the Office Head must approve any decision to deny an accommodation when the basis of the denial is undue hardship. See Section 8-2, below.

Decision-makers, with the assistance of the Accommodation Coordinators, are ultimately responsible for all aspects of the accommodation process. This includes, but is not limited to, determining and documenting that the requesting employee or job applicant is a qualified individual with a disability, identifying and documenting the essential functions of that individual's

job, determining whether a reasonable accommodation is necessary to enable the requesting employee to perform essential functions of the job or to enjoy equal benefits and privileges of employment, identifying, locating, and purchasing appropriate accommodations, arranging for installation, training, and follow up, as needed, requesting and maintaining necessary documentation, and fulfilling all reporting requirements.

Given the importance of these determinations and the fact that a correct decision may require the application of complex legal concepts, all decision-makers are strongly encouraged to consult with the EEO DPM and/or CC to ensure that the process used, and decisions made, are in compliance with these Procedures and all applicable statutes, regulations, and case law.

3-3. REQUIRED NOTIFICATIONS: Upon receipt of a request for reasonable accommodation, the decision-maker and Accommodation Coordinator shall contact the requesting party as soon as possible, but usually within (2) business days from the date he or she receives the request, to inform the requesting party that he or she is the decision maker, to explain how the request will be handled, and to begin the interactive process described in Section 3-4 below. Every effort should be made to prevent any delay during this part of the process. The decision-maker shall also notify the Office Head that a request for accommodation has been received.

If the EEO DPM receives a request directly from a DEA employee, job applicant, or a designated representative, the EEO DPM, after contacting the requesting party, will notify the appropriate decision-maker that a request for accommodation has been received. As soon as possible, but no later than two (2) business days from the date the request is received, the EEO DPM shall inform the decision-maker about the request and forward a copy of any written request to the decision-maker or the employee's supervisor, as applicable. The decision-maker will decide how much assistance he or she wishes to receive from the DPM, and as soon as possible after making that determination, but no later two (2) business days from the date he or she receives the request from the EEO DPM, shall inform the requesting party that he or she is the decision-maker, explain how the request will be handled, and begin the

interactive process.

3-4. INTERACTIVE PROCESS: The individual requesting the accommodation, the Accommodation Coordinator and the decision-maker shall engage in an interactive process to determine what, if any, accommodation is required. Decision-makers are encouraged to include representatives of the EEO staff and appropriate HRLH staff in this process. The interactive process should include a discussion of all relevant issues, including, but not limited to, whether the employee requesting a reasonable accommodation is a qualified person with a disability, the identification of the essential functions of the employee's job, and, if an accommodation is necessary to enable a qualified employee to perform the essential functions of his or her job, which accommodation or accommodations are appropriate and do not pose undue hardship. The goal of this process is to ensure that all parties understand how the request will be processed, to ensure that there is an opportunity for all relevant information to be exchanged, and to provide the requesting party with an opportunity to propose and discuss potential accommodations.

3-5. THIRD PARTY REQUESTS: When a request for accommodation is made by a third party on behalf of an applicant or employee, the decision maker should, if possible, confirm the request with the applicant or employee before proceeding. In circumstances (such as hospitalization for an acute illness) that make it impossible for the request to be confirmed, the decision maker should begin processing the third party's request before obtaining such confirmation. However, as soon as reasonably possible and prior to the actual delivery of an accommodation, the decision maker shall obtain confirmation from the employee or job applicant that he or she wants a reasonable accommodation. In general, when dealing with third party requests, decision makers shall ensure that the privacy rights of DEA employees and job applicants are not violated. See Section 7-1, below.

3-6. REASSIGNMENT: When responding to a request for reassignment, the following considerations apply:

a. Reassignment should normally be considered as a last resort. It will only be considered when an employee cannot perform the essential functions of his or her current position and no

accommodation is possible in that position, or if the only effective accommodation would cause undue hardship to DEA. Reassignment is not available as an accommodation to job applicants. It cannot be required when DEA can demonstrate that it poses an undue hardship. As with other forms of reasonable accommodation, an employee is entitled to an effective accommodation, which may or may not be his or her accommodation of choice. In the case of multiple vacancies, while nothing prevents DEA from offering several reassignment opportunities, DEA is only obligated to offer one reassignment opportunity as a form of accommodation. An employee must be qualified for the new position, with or without reasonable accommodation.

b. In considering whether there are positions available for reassignment, the decision maker shall work with both the employee and with personnel in HR to identify all vacant positions within DEA that are within the commuting area of the employee's office for which he or she may be qualified, with or without reasonable accommodation. For this purpose, the term "vacant positions" shall include positions that are actually vacant and that the DEA intends to fill, as well as positions that the decision-maker or HR knows will become vacant over the next sixty (60) calendar days.

c. The initial search should focus on positions within the employee's current office that are equivalent to the employee's current job in terms of pay, grade, promotion potential, status, benefits, geographical location, and other relevant factors. If an equivalent position is found, the employee must be offered that position. He or she cannot be required to compete for that position.

d. If there is no equivalent level position vacant (or anticipated to be vacant) within DEA that is in the same commuting area as the employee's current position, the decision maker and Accommodation Coordinator shall, with the assistance of HR, widen the search to include vacancies in the entire U.S. Department of Justice (DOJ) that are within commuting distance of the employee's office. If, after widening the search to include DOJ vacancies, there is no equivalent level position that is in the same commuting area as the employee's current position, the decision maker and Accommodation Coordinator shall consult with the employee to determine whether the employee is willing to accept a vacant position outside of the employee's current commuting area. If so, the search shall be expanded to other geographic regions where DEA and DOJ may have vacant positions. In general, as with other transfers not required by management, DEA is not required to pay relocation expenses.

e. If the expanded search for an equivalent position is unsuccessful, the office must consider vacant lower level positions for which the individual is qualified. Prior to assigning a lower-level (non-equivalent) position to an employee, the decision-maker should consult with the employee to determine which factors are most significant to the employee.

CHAPTER 4. TIME FRAMES FOR PROCESSING REQUESTS AND PROVIDING REASONABLE ACCOMMODATIONS

4-1. TIME PERIOD FOR PROCESSING REQUESTS: Requests for accommodations shall be processed, and accommodations, if appropriate, provided, in as short a timeframe as reasonably possible. The timeframe necessary to process a request will vary depending upon the nature of the accommodation requested, the need for supporting information, and other factors. However, absent the need for supporting medical information and/or the existence of other extenuating circumstances, a decision on a request for accommodation should be made within seven (7) business days after a request is received. In addition, absent the need for supporting medical information and/or the existence of other extenuating circumstances, a request for reasonable accommodation shall be processed and the accommodation, if granted, provided, within fifteen (15) business days from the date the request is received by the decision maker, Accommodation Coordinator or EEO DPM designated to receive such requests in Section 2-4, above.

4-2. EXPEDITED PROCESSING: Circumstances may warrant expedited decision-making in certain cases. Examples of situations that require reasonable accommodations to be provided in a shorter time period include:

- a. **Job Applicants.** Based 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 to ensure that an applicant with a disability has an equal opportunity to apply for a job. The applicable HR office and/or the selecting official must act promptly to make a determination and, if appropriate, provide reasonable accommodation.
- b. **Employees.** Based on the nature of the request, an employee may require a reasonable accommodation for a job-related activity that will occur within a short time frame.

For example, an employee may need a sign language interpreter for a meeting scheduled to take place in five (5) days. (The employee should, however, provide as much notice as possible for a regularly occurring activity.) In addition, an employee's accommodation request may include both simple, easy to obtain, items and more complex accommodations. For example, an employee with limited dexterity may need both a simple trackball and complex, computer-related accommodations, such as speech-recognition software. Easily obtained accommodations that are necessary to enhance the employee's productivity and effectiveness should be provided to the employee as soon as reasonably possible, and should not be delayed pending completion of the entire request.

4-3. MEDICAL DOCUMENTATION AND EXTENUATING CIRCUMSTANCES:

If circumstances preclude a decision-maker from making a decision or implementing the accommodation within the required timeframe, the total processing time may be extended. Processing time may only be extended when strictly necessary due to circumstances beyond the decision-maker's control. The following are non-exhaustive examples of extenuating circumstances:

- a. There is an outstanding initial or follow-up request for medical information.
- b. The purchase of equipment may take longer because of requirements under the Federal Acquisition Regulation.
- c. Equipment must be back ordered or there are other vendor-related delays that are not within the control of DEA.
- d. The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before it is purchased.
- e. The need for the Office Head or his/her designee to approve an undue hardship claim raised by the decision-maker.

4-4. NOTIFICATION TO INDIVIDUAL FOR DELAY IN PROCESSING REQUEST:

Where extenuating circumstances exist, the decision-maker must notify the individual in writing of the reason for the delay, and the approximate date on which a decision or the provision of the reasonable accommodation is expected. Additional developments should also be communicated promptly to the individual in writing.

4-5. TEMPORARY MEASURES: If there is a delay in providing an approved accommodation, the decision-maker should consider whether temporary measures can be taken to assist the employee. Any accommodation offered on a temporary basis must be presented to the employee in writing, and must clearly state the temporary nature of the solution and the anticipated implementation date of the permanent accommodation.

CHAPTER 5. MEDICAL INFORMATION

5-1. REQUESTING INFORMATION/DOCUMENTATION: If an employee or applicant requests a reasonable accommodation, the decision maker is entitled to sufficient information/documentation to determine that the individual has a disability, as defined in the Rehabilitation Act, and that he or she requires a reasonable accommodation. When the disability and/or the need for accommodation is not obvious and is not otherwise known, the decision-maker may require that the person requesting an accommodation provide reasonable information/documentation about the functional impairment at issue and the requested accommodation. When appropriate, medical information and documentation may also be requested by the EEO DPM.

If the medical information submitted is insufficient, the decision-maker may request supplemental information/documentation. When requesting additional information, decision-makers are encouraged to explain to the requesting party why the documentation is insufficient and to identify the information still needed. Failure to submit properly requested information/documentation may result in denial of the request for reasonable accommodation.

5-2. SPECIFIC TYPES OF MEDICAL INFORMATION/DOCUMENTATION: The decision maker, Accommodation Coordinator or the EEO DPM may request information/documentation such as the following that is relevant to the reasonable accommodation decision:

- a. the nature, severity, and duration of the impairment;
- b. the activities that the impairment limits;

- c. the extent or degree to which the impairment limits an activity;
- d. the reason an individual requires reasonable accommodation or the particular reasonable accommodation requested; and/or
- e. how the reasonable accommodation will assist the individual to apply for a job, to perform the essential functions of a job, or to enjoy a benefit of employment.

The decision-maker may obtain information regarding the nature and extent of an individual's disability and the functional limitations it imposes directly from the individual. Alternatively, the decision-maker may require that information/documentation come from an appropriate professional, such as a physician, a vocational counselor, a physical therapist, or another individual with recognized expertise regarding the individual's condition. When appropriate, the decision-maker should provide the professional with information describing the nature of the job, the essential functions the individual must perform, and other relevant information. The decision maker may have medical information reviewed by a medical expert in HRLH.

5-3. INSUFFICIENT MEDICAL DOCUMENTATION: If an individual fails to provide the decision-maker with sufficient information/documentation to determine that an employee or applicant has a disability that requires a reasonable accommodation, and the decision-maker has explained the insufficiency, has identified the information/documentation needed, has allowed the individual the opportunity to provide the identified information/documentation, and has placed the individual on notice that failure to provide the identified documentation may result in denial of the accommodation request, then the decision-maker may deny the accommodation request.

Alternatively, the decision maker may ask the individual to sign a limited medical release permitting the decision-maker to submit a list of specific questions addressing the insufficiency to the individual's physician or health care professional and/or permitting the decision-maker or a physician or health care professional of DEA's choice to make the contact and inquiries. The decision-maker may also offer, and in certain circumstances require, the individual an opportunity to submit to an independent examination by a health care practitioner of the DEA's choosing. Under this option, DEA is responsible for paying for the examination.

CHAPTER 6. INFORMATION GATHERING AND REPORTING

6-1. GENERAL: Executive Order 13164 requires Agencies to maintain a system of recordkeeping that tracks the processing of requests for reasonable accommodation and maintains the confidentiality of medical information.

6-2. REPORTING: The Accommodation Coordinator must ensure that requests for accommodation and the actions taken during the reasonable accommodation process are promptly and properly documented on DOJ Form 100A, DOJ Form 100B, and, in the event that the request is denied, on DOJ Form 100C. The EEO Office shall be responsible for reporting DEA's compliance with its obligations under the Rehabilitation Act.

CHAPTER 7. CONFIDENTIALITY REQUIREMENTS

7-1. CONFIDENTIALITY AND DISCLOSURE: The law requires that medical information and documentation related to the reasonable accommodation process be kept confidential. For these purposes, confidentiality means that this information/documentation must be kept in files separate and apart from an individual's personnel file(s). In general, persons entitled, and having access, to such information/documentation in order to make an accommodation decision (including the decision maker, supervisors in the employee's chain of command, the Accommodation Coordinator, appropriate staff in CC, HR, HRLH and EEO) must not disclose it, except as follows:

- a.** Information about necessary accommodations and/or work restrictions may be provided to other supervisors or managers who need to know;
- b.** Information about emergency treatment that could be required may be disclosed to first aid and safety personnel;
- c.** Investigatory information may be disclosed to government officials conducting internal or external investigations;
- d.** Under limited circumstances, information may be disclosed to worker's compensation offices or insurance carriers, See 29 C.F.R. Part 1630 Appendix sections 1630.14(4);

1630.16(f);

- e. HR, EEO and CC personnel dealing with equal employment opportunity matters may be given information to maintain records, and to evaluate and report on how DEA processes requests for reasonable accommodation or to defend DEA in litigation relating to the accommodation request; and
- f. Information about assistance needed during an emergency evacuation may be required and can be provided to safety personnel.

7-2. RECORDS RETAINED: During the time the request for reasonable accommodation is pending and, for requests that have been denied, during the time period for reconsideration established in Chapter 9, below, the Accommodation Coordinator shall maintain all records related to the reasonable accommodation determination, including medical records obtained pursuant to this Chapter. Following an uncontested determination or the resolution of a contested determination all records, including the medical records, relating to the request shall be forwarded to the EEO Office. The EEO Office shall maintain such files separate and apart from the individual's personnel file(s). These records should be maintained for the duration of the individual's tenure with DEA.

CHAPTER 8: DECISIONS REGARDING ACCOMMODATION REQUESTS

8-1. GRANTING A REASONABLE ACCOMMODATION REQUEST: A determination that a reasonable accommodation will be granted should be communicated to the individual, in writing, as soon as practicable. Absent extenuating circumstances, the decision maker shall give the requesting party his or her decision within seven (7) business days. Such notice should include the projected timeframe for providing the accommodation.

In the event that, at some point in the future, the employee has a different first-line supervisor than the one who made the decision on the request for accommodation, the employee is responsible for notifying any subsequent first-line supervisors of the earlier decision to grant the accommodation. In the event that the employee changes his or her position after the request for accommodation is granted, his or her immediate supervisor may choose to

reevaluate the requested accommodation based upon the duties of the employee's current position.

8-2. DENIAL OF A REASONABLE ACCOMMODATION REQUEST: When a decision-maker denies a request for reasonable accommodation, the decision must: (1) be in writing, preferably on [DOJ Form 100C](#), and (2) specify the reason(s) for denying the request. Absent extenuating circumstances, the decision-maker shall give the requesting party his or her decision within seven (7) business days after receiving the request or after receipt of adequate medical information. Reasons for denying a request for reasonable accommodation may include, but are not limited to, the following:

- a. The employee or applicant does not meet the definition of a qualified individual with a disability under the Rehabilitation Act.
- b. Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
- b. The requested accommodation would not be effective.
- c. The requested accommodation would require the removal of an essential job function.
- d. The requested accommodation would require the lowering of a performance or production standard.
- e. The requested accommodation would be in violation of the terms and conditions of a collective bargaining agreement.
- f. The requested accommodation would result in an undue hardship to DEA. Before reaching this determination, the decision maker must have explored whether other effective accommodations exist which would not impose undue hardship. In making an undue hardship determination, the decision maker shall first consult with the EEO DPM, HRLH, if appropriate, and CC. The Office Head or his or her designee must approve all decisions that an accommodation would result in an undue hardship. The Office Head or his or her designee must also be informed before a request for accommodation is denied on any ground.

8-3. NOTICE OF APPEAL RIGHTS: The written notice of denial must also inform the requesting party that he or she has the right to file an EEO complaint and may also have rights under administrative and union grievance procedures. These notices are already set forth on

[DOJ Form 100C](#). A separate written notice should also be provided explaining the employee's right to request informal dispute resolution.

CHAPTER 9. RECONSIDERATION AND RESOLUTION OF DISPUTES CONCERNING A DENIED REQUEST FOR REASONABLE ACCOMMODATION

9-1. GENERAL: Divisions, Offices and Laboratories shall seek to resolve disputes arising from a denial of a request for reasonable accommodation at the lowest possible level. It is recognized that some disputes will escalate into formal administrative and legal forums; however, utilization of Alternative Dispute Resolution (ADR) or other appropriate mechanisms has the potential to resolve many of these disputes. Therefore, employees and applicants who are denied a request for accommodation are entitled to engage in an informal dispute resolution process, set forth in subsection 9-3, below.

9-2. RECONSIDERATION: The employee or applicant requesting the accommodation may request reconsideration of any denial of a request. The request should be in writing. If a request for reconsideration is made, the decision-maker and/or Accommodation Coordinator should forward the request to the Office Head for reconsideration. If the Office Head is the decision maker, the Office Head should first consult with the Assistant Deputy Chief Counsel for Litigation and Policy, the Associate Chief Counsel of the Civil Litigation Section (CCL), or the Associate Chief Counsel of the Administrative Law Section (CCA) of the Office of Chief Counsel for legal advice before denying the request for reconsideration.

9-3. INFORMAL DISPUTE RESOLUTION PROCEDURES: If the employee or applicant informs the decision-maker or Accommodation Coordinator that he or she wishes to exercise his or her right to engage in informal dispute resolution, the decision-maker or Accommodation Coordinator shall immediately inform the EEO Office who shall arrange for a mediator, unless the employee or applicant has already filed an informal EEO complaint, in which case EEO guidelines relating to alternative dispute resolution shall apply. The decision-maker is required to engage in the informal dispute resolution

process.

CHAPTER 10. DEFINITIONS

10. DEFINITIONS: These Procedures make reference to legal terms that are critical to understanding DEA's responsibilities. The following definitions are taken from the U.S. Equal Employment Opportunity Commission's (EEOC's) Americans with Disabilities Act, Title I Technical Assistance Manual and other EEOC guidance documents. They are provided for convenience only; applicable statutes, regulations, Executive Orders, directives, policy statements, and binding legal precedents should be consulted.

- a. An Individual with a Disability:** An individual who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.
- b. Physical or Mental Impairment:** Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- c. Major Life Activities:** Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- d. Reasonable Accommodation:** Any change in the work environment or in the way things are usually done that results in equal employment opportunity for an individual with a disability. Some examples of reasonable accommodation include:
 - making existing facilities readily accessible to, and usable by, employees and applicants with a disability;
 - job restructuring;
 - modifying work schedules;
 - reassignment to a vacant position;
 - acquiring or modifying equipment or devices;
 - adjusting or modifying examinations, training materials, or policies;

- providing qualified readers or interpreters.
- e. Undue Hardship:** Any action that requires significant difficulty or expense. If a specific reasonable accommodation causes undue hardship, DEA is not required to grant that particular accommodation. Determination of undue hardship must always be determined on a case by case basis, considering factors that include the nature and cost of the accommodation needed and the impact of the accommodation on the operations of the agency. A determination that an accommodation will not be provided because to do so would result in undue hardship must be made by the Office Head or his or her designee.
- f. Qualified Individual with a Disability:** An individual with a disability who (1) satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) is able to perform the essential functions of the position, with or without reasonable accommodation.
- g. Essential Functions:** Those job duties that are so fundamental to the position that the individual holds or desires that he or she cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his or her ability to perform it. A determination of the essential functions of a position is made on a case-by-case basis and reflects the job as actually performed. It is not simply the components of a generic position description.

CHAPTER 11. ADDITIONAL INFORMATION

Any person interested in receiving further information regarding these procedures may contact:

Drug Enforcement Administration Equal Employment Opportunity Office
8701 Morrissette Dr.

Springfield Virginia 22152

By phone at (202) 307-8888.

Refer also to the EEO Office's website at <http://webster/cgi-bin/fr/manuals/eoo/>.