

	<p>UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION</p>	<p>ORDER NO: 0980.3</p>	<p>DIRECTIVES SYSTEM</p>
<p>REASONABLE ACCOMMODATION POLICY AND PROCEDURES</p>			<p>1/3/18</p>

1. PURPOSE: To set forth the policies and procedures of the U.S. Consumer Product Safety Commission for providing reasonable accommodations to employees or applicants with disabilities, in compliance with applicable laws and regulations.

2. SCOPE: These policies and procedures apply to all CPSC employees and applicants with disabilities.

3. CANCELLATION: This Order supersedes Order 0980.3 dated August 31, 2004.

4. AUTHORITIES:

- a. Executive Order 13164, July 26, 2000: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation
- b. Executive Order 13163, July 26, 2000: Increasing Federal Employment of Individuals with Disabilities
- c. Executive Order 13548, July 26, 2010: Increasing Federal Employment of Individuals with Disabilities
- d. Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101-12117
- e. Rehabilitation Act of 1973, 29, U.S.C. 791, as amended to date
- f. Americans with Disabilities Act Amendments Act of 2008
- g. U.S. Equal Employment Opportunity Commission (EEOC) Final Regulations to Implement the Equal Employment Provisions of the Americans with Disability Act, as Amended (March 25, 2011)
- h. 29 C.F.R Part 1614: Federal Sector Equal Employment
- i. 29 C.F.R Part 1630: Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act

- j. EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, October 20, 2000
- k. EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, October 22, 2002
- l. EEOC Management Directive 715
- m. Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA)
- n. Privacy Act of 1974, as amended

5. EXPIRATION DATE: This document will remain in effect until rescinded or superseded.

6. CPSC POLICY: It is the policy of the CPSC to ensure requests for reasonable accommodation are handled in an effective and expeditious manner. It is the obligation of CPSC to provide reasonable accommodation to qualified employees and applicants with disabilities, unless to do so would cause undue hardship on the operations of CPSC. The objectives of the policy are to:

- a. Enable the individual employee to perform the essential function(s) of the position or to gain access to the workplace.
- b. Enable an applicant with a disability to have an equal opportunity to participate in the application process and be considered for the job.
- c. Allow an employee with a disability an opportunity to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

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1. DEFINITIONS:

- a. Assistive Technology: An item, piece of equipment, or system that is commonly used to increase, maintain, or improve the functional capabilities of individuals with disabilities. Assistive technology includes, but is not limited to, ergonomic keyboards, screen-enlarging software, TTYs/TDDs (text telephones), split screen reading software, etc. The term “assistive technology” is used interchangeably with “computer adaptive equipment.”
- b. Decision Maker: The individual charged with making the determination on a request for reasonable accommodation. The immediate supervisor or the lowest-level supervisor in the chain of command with the authority to approve the accommodation is the decision maker in most instances. In the case of an applicant, the decision maker will be the Director of Human Resources.
- c. Direct Threat: A significant risk of substantial harm to the health or safety of the individual with a disability or others that cannot be eliminated or reduced by reasonable accommodation.
- d. Disability: An impairment that substantially limits one or more of the major life activities, a record of such impairment, or being regarded as having such an impairment.
- e. Disability Program Manager (DPM): The employee responsible for assembling and organizing information relating to a request for reasonable accommodation; assists and advises management on issues relating to disability accommodations; oversees information tracking; and provides an ongoing assessment of the agency’s reasonable accommodation program. The DPM works in the Office of EEO and Minority Enterprise (OEEOME).
- f. Essential Functions: Those job duties that are so fundamental to the position that the individual 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 the ability to perform such function. 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 job description.
- g. Extenuating Circumstances: Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for the accommodation. When there is a delay in processing a request for, or delivering, a reasonable accommodation, the agency must investigate whether there are temporary measures that could be taken to

assist the individual with a disability.

- h. Interactive Process: The collaborative effort involving the individual requesting the reasonable accommodation and the decision maker to determine what, if any, accommodation should be provided. During this process, the parties must also discuss the precise nature of the problem that is generating the request, how a disability is prompting a need for an accommodation, and alternative accommodations that may be effective in meeting the individual's needs.
- i. Major Life Activity: Basic activities that the average person in the general population can perform with little or no difficulty. These activities include, but are not limited to: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, eating, sleeping, standing, lifting bending, learning, reading, concentrating, thinking, communicating and working. Major life activities also include the operation of major bodily functions, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- j. Medical Review Officer (MRO): Medical professional(s) acting on behalf of CPSC who review medical documentation, when necessary, and provide medical opinions as they relate to requests for reasonable accommodation.
- k. Personal Assistance Services (PAS): Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a reasonable accommodation, including, but not limited to, assistance with removing and putting on clothing, eating, and using the restroom. Such services do not include medical care.
- l. Personal Assistance Service Provider: An employee or independent contractor whose primary functions include provision of personal assistance services.
- m. Qualified Individual with a Disability: An employee or applicant with a disability who (1) satisfies the requisite skill, experience, education and other job-related requirements of the position held or desired; and (2) who can perform the essential functions of the position, with or without reasonable accommodation. If an employee needs a reasonable accommodation to perform an essential function, or to eliminate a direct threat, and refuses to accept an effective accommodation, he/she may not be qualified to remain in the job.
- n. Reasonable Accommodation: A reasonable accommodation is a change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal

employment opportunities. There are three general categories of reasonable accommodations: (1) modifications or adjustments to a job application process that enable an applicant with a disability to be considered for a job; (2) modifications or adjustments that enable a qualified individual with a disability to perform the essential function(s) of the job; and (3) modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. For example, types of reasonable accommodation include: access to equipment and computer technology; changing tests and training materials; job restructuring; leave modifying, eliminating or substituting the marginal functions of a job; modifying work schedule; modifying the method of performing a job function; modifying workplace policies; readers; reassignment to a vacant position; sign language interpreters; changing supervisory methods; ergonomic evaluations; personal assistance services; and telework.

- o. Reassignment: Reassignment is a form of reasonable accommodation that must be provided, absent undue hardship, to an employee who, because of a disability, can no longer perform the essential function(s) of the position he/she holds, with or without reasonable accommodation. Reassignments shall only be made to vacant positions and to employees who are qualified for the new position. If the employee is qualified for the position, he/she will be reassigned to the job and will not have to compete for it. A reassignment is a “last resort” accommodation that must be considered if there are no effective accommodations that would enable the employee to perform the essential functions of his/her current job, or if all other possible accommodations would impose undue hardship. Reassignment as a form of reasonable accommodation only applies to employees. Reassignment does not apply to applicants for a position.
- p. Request for Reasonable Accommodation: An oral or written statement indicating that an individual needs an adjustment, change at work, or modification in the application process, for a reason related to a medical condition.
- q. Requestor: A qualified employee or applicant with a disability, or an individual acting on his or her behalf who requests the reasonable accommodation.
- r. Undue Hardship: An undue hardship occurs when a specific accommodation would require significant difficulty or expense. A determination of undue hardship is made on a case-by-case basis and focuses on the resources and circumstances of the CPSC as compared to the cost or difficulty of providing the specific accommodation. Undue hardship includes financial considerations, but also may result from a specific accommodation that is unduly extensive, substantial, disruptive, or

would fundamentally alter the nature of agency operations or functions.

2. ASSIGNMENT OF RESPONSIBILITIES:

The Chair or the Chair's designated official shall:

1. Ensure a continuing affirmative application of the policy and procedures contained in this Order.
2. Provide sufficient resources for program implementation to ensure efficient and prompt processing of requests for reasonable accommodation.
3. Recognize and reward individuals who have demonstrated superior efforts in supporting the spirit of the law.

Director of Human Resources (EXRM) shall:

1. Process requests for reasonable accommodation from applicants during the recruitment and application process, as requested.
2. Make vacancy announcements available to applicants/employees with disabilities. This includes making announcements available in alternative formats such as braille.
3. Ensure that a statement of reasonable accommodation will be included on all job announcements informing applicants that they may request reasonable accommodations that will allow them to be considered for the position and how to make such requests.
4. Assist supervisors and the Director of OEEOME, upon request, when the reasonable accommodation involves issues such as leave, job restructuring, modified or part-time work schedules, modifying workplace policies, reassignment, or telework.

Director of Equal Employment Opportunity and Minority Enterprise (OEEOME) shall:

1. Oversee and advise on agency-wide reasonable accommodation policies and procedures.
2. Maintain the records related to an employee's request for accommodation for the duration of the employee's tenure with the agency. Ensure that medical records are kept confidential and maintained in files separate from the individual's official personnel file.
3. Prepare annually a summary statistical report to evaluate whether improvements of the existing procedures are needed.
4. Ensure that necessary training is provided to managers and supervisors

and others regarding the implementation of the policies and procedures in this order.

5. Provide technical guidance to the processing of reasonable accommodation requests.

Disability Program Manager (DPM) shall:

1. Oversee the reasonable accommodation process.
2. Serve as a resource for supervisors and managers with respect to potential reasonable accommodations, assist in obtaining assistive technology, adaptive equipment, or specially designed furniture.
3. When necessary, engage in an interactive process with supervisors, managers, applicants, and employees on reasonable accommodation requests.
4. Advise supervisors and managers on their responsibilities relating to reasonable accommodation of employees with disabilities.
5. Monitor the process to ensure that prescribed time frames are being met.
6. Serve as the agency's liaison responsible for interfacing with and securing equipment/devices provided through the Computer/ Electronic Accommodations Program (CAP) in response to requests for reasonable accommodation
7. Responsible for determining the need for medical documentation and requesting and evaluating medical documentation in support of requests for reasonable accommodation.
8. The DPM is not a designated decision maker and has no authority to determine whether a reasonable accommodation should be granted or denied.
9. Responsible for informing the decision maker about the employee's functional limitations, including the necessary restrictions on the work or duties of the employee.
10. Request relevant supplemental medical information if documentation submitted does not clearly explain the nature of the disability, reason for reasonable accommodation, or does not clarify how the requested accommodation will assist the employee to perform the essential function(s) of the job.
11. Coordinate with the Director of the Office of Facilities, as necessary, to procure specified equipment and/or devices not offered through CAP in responding to requests for reasonable accommodation.

12. Provide guidance to EXRM staff (for applicant requests) and employees and their supervisors to assist with identifying internal and external resources available to facilitate the selection of an effective accommodation.
13. Ensure the confidentiality of medical information collected to support accommodation requests.
14. At times, consult with agency designated Medical Review Officer in assessing an individual's medical condition or disability and the need for reasonable accommodation.
15. Collect, prepare, and report reasonable accommodation data (including barrier and trend analysis) to the Director of OEEOME on an annual basis to identify and eliminate barriers as required by the EEOC Management Directive 715 (MD-715).
16. Oversee information tracking and record keeping and provide an ongoing assessment of the agency's reasonable accommodation program.

EEO Attorney (EOA) shall:

Provide legal advice and guidance to the Director of OEEOME and the DPM regarding reasonable accommodation policies and procedures. The EOA is an OEEOME staff member.

Employees and Applicants shall:

1. Initiate a request for reasonable accommodation as needed. (A designated third party may also initiate a request).
2. Provide sufficient information and documentation, such as a description of the accommodation requested (if known), and an explanation of how it would enable an employee to perform the job or assist an applicant in the selection process.
3. When required, provide relevant medical information related.
4. Participate in ongoing communication with the decision maker and other applicable parties regarding the reasonable accommodation request.

Occupational Safety and Health Administrator (OSHA) representative shall:

Coordinate and provide assistance to the DPM and other agency officials on specific requests such as adaptive equipment, removal of architectural barriers (e.g., reconfigured workspaces), facility accessibility, and materials in alternative formats (e.g., Braille, large print).

Office of the General Counsel (OGC) shall:

When necessary, provide legal advice and consultation on matters related to the Rehabilitation Act, the Americans with Disabilities Act, and other applicable laws concerning the reasonable accommodation requirement.

Supervisors and Managers shall:

1. Foster an environment that supports the reasonable accommodation procedures contained in this Order and ensures that their actions are consistent with the objectives of reasonable accommodations.
2. Acknowledge receipt of requests for reasonable accommodation, initiate inquiries and dialogue with requestors, and describe what will happen during the processing of the requests.
3. Engage in an interactive process with employees or applicants who request a reasonable accommodation.
4. Make decisions on individual requests for reasonable accommodation, in accordance with the procedures established in this policy.
5. Ensure that requests for accommodation are processed in a prompt and expeditious manner.
6. Seek consultation with the DPM before denying a reasonable accommodation request.
7. Ensure that individuals with disabilities are made aware of the policies and procedures in this order, and have opportunities to seek reasonable accommodation to enable them to enjoy the same benefits and privileges of employment as employees without disabilities.

3. REASONABLE ACCOMMODATION PROCEDURES:

a. Initiating a Request for a Reasonable Accommodation

1. An employee or job applicant may initiate a request for a reasonable accommodation orally or in writing. The request does not have to use any specific words, such as "reasonable," "accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation whenever he/she chooses, even if he/she has not previously disclosed the existence of a disability. Although not required, it may be helpful in expediting the process if the employee specifically notes that he/she is requesting a reasonable accommodation. An individual's oral request will start the reasonable accommodation process; however, for record-keeping purposes, the requestor must complete the "Confirmation of Request for Reasonable Accommodation" (Appendix A) or confirm their

request in writing (including by email). Although the written confirmation should be made as soon as possible following the request, it is not required to initiate the process.

2. For recurring requests of the same type (e.g., the assistance of sign language interpreters or readers), written confirmation is required only for the first request, although notice must be given each time the accommodation is needed.
3. Requests can be made at any time. For example, the request does not have to be made as soon as a disability affects work performance, or by some other specified time.
4. The decision maker will submit a copy of the written request to the DPM for record keeping purposes.
5. Under most circumstances, employees should communicate requests for reasonable accommodation to their immediate, first line supervisor. Nevertheless, an employee's request will be considered if it is made to another supervisor or manager in his/her immediate chain of command, OEEOME staff or the DPM.
6. A job applicant may make a request for accommodation in writing or orally to the selecting official, EXRM personnel, any agency employee with whom the applicant has contact in connection with the application process, or any other individual designated by CPSC. However, the Director of EXRM will be the decision-maker.
7. A family member, friend, health professional, or other representative may request a reasonable accommodation on behalf of an employee or applicant with a disability. The request shall be made to one of the same persons to whom the employee or applicant would make the request. To the extent possible, the decision maker should contact the individual with a disability to confirm that he/she in fact wants a reasonable accommodation. It may not be possible to confirm the request if the employee or applicant has been hospitalized or is otherwise unavailable. In this situation, the management official will process the third party's request and consult directly with the individual needing the accommodation as soon as it is practicable.

b. Referring Initial Requests

If an employee gives a reasonable accommodation request to someone other than the designated decision maker, the recipient of such a request should refer the employee to the appropriate decision maker within three (3) business days from the date that

the individual receives the request. Every effort must be made to prevent any delay during this stage of the request process.

c. Processing Requests for a Reasonable Accommodation

1. The processing of reasonable accommodation requests and all time limitations, discussed in Section d below, begin when a request is received by the decision maker (usually the first-line supervisor) or any manager in the employee's immediate chain of command. In addition, an employee's request will be considered if it is made to OEEOME staff or the DPM.
2. Once the decision maker receives a request, the parties will engage in an interactive process to clarify what the individual needs are and determine what, if any, accommodation is appropriate. This is a cooperative, informal process and involve the requestor, the decision maker, and any other appropriate personnel (if necessary), such as the DPM or EXRM staff. Communication is a priority throughout the entire process. The goal is to confirm that the parties understand how the request is to be processed and ensure the exchange of relevant information. The decision maker will have the primary responsibility for identifying possible accommodations. He or she will take a proactive approach in researching and considering possible accommodations, including consulting with other appropriate resources for assistance (resources are listed at Appendix E).
3. The employee or applicant requesting the accommodation should also participate to the extent possible in helping to identify an effective accommodation. Where the employee or applicant and the decision maker are unfamiliar with the possible accommodations, they should consult the DPM.
4. If a supervisor or other decision maker concludes that medical information is necessary in order to evaluate a request for reasonable accommodation, he/she will make a request to the DPM to obtain such information. The DPM will make a determination as to whether medical documentation is necessary. If the DPM determines that medical information is not necessary, the request for accommodation will be returned promptly to the decision maker to complete the processing.
5. If the DPM determines medical documentation is necessary, the DPM will request the employee or applicant to provide relevant information to support the accommodation request. Detailed requirements for medical documentation are discussed in section e below.

6. Once the decision maker determines that an accommodation will be provided, he/she may grant the reasonable accommodation.
7. The decision maker will immediately communicate the decision to the employee via the "Decision on Reasonable Accommodation Request" form (OEEOME personnel will provide this form to the decision maker). Thereafter, the decision maker must file the "Reasonable Accommodation Information Report" (Appendix C) with the DPM.
8. If the accommodation request involves job restructuring, leave, modified or part-time work schedules, modification of workplace policies, reassignment, or telework as an accommodation, the decision maker, in consultation with the Director of EXRM, may approve the accommodation without further discussion.
9. For a request involving other matters, such as assistive technology and adaptive equipment, including information technology and communications equipment, specifically designed furniture, requests for a reader, sign language interpreter, or other personal assistants to enable employees to perform their job functions, the decision maker should consult the DPM. This also includes requests for materials in alternative formats (e.g Braille), requests for removal of architectural barriers, including reconfigured work spaces and requests for accessible parking.
10. The decision maker may choose among reasonable accommodations as long as the chosen accommodation is effective. When there are two or more effective accommodations, the decision maker may choose the one that is most economical to provide.

d. Time Frames

1. If a request for an accommodation does not require medical documentation and there are no extenuating circumstances (e.g., delay in receiving adaptive equipment, equipment is back-ordered or architectural barriers must be removed, etc.), the decision maker shall process the accommodation request and provide a decision within 30 calendar days from the date the request is received, or sooner, if possible. If the accommodation cannot be provided immediately or within 30 calendar days, the decision maker must inform the individual why additional time is needed to process the request and provide a projected time frame for a decision. The time to process a request for reasonable accommodation may not be extended beyond the 30 day time limit merely because a written request by the requestor has not been received.

2. For requests requiring medical documentation, the 30 calendar day time period shall stop running until the DPM receives medical information and/or supplemental information from the requestor or a health care provider. Once the DPM receives the requested medical information, the time period shall begin to run again. The time to process a request for reasonable accommodation may not be extended beyond the 30 day time limit merely because a written request by the requestor has not been received.
3. If a decision maker does not immediately grant a requested accommodation and there is a delay in providing an approved accommodation (*i.e.*, delay in receiving adaptive equipment, etc.), the decision maker must investigate whether temporary measures can be taken to assist the employee or applicant. This could include providing the requested accommodation on a temporary basis. If a delay is attributable to the DPM's need to obtain or evaluate medical documentation and CPSC has not yet determined that the employee is entitled to an accommodation, CPSC may also provide an accommodation on a temporary basis. In such a case, the decision maker will notify the employee in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request.
4. In order to ensure expeditious processing of the requests, all decision makers should designate alternative staff to receive, process, and provide reasonable accommodations when the decision maker is absent or otherwise not available.

e. Medical Information

1. CPSC is required to provide a reasonable accommodation to an employee or applicant with a covered disability. To determine whether an employee or applicant has a covered disability, the DPM may request information sufficient to substantiate that the individual has a disability as defined by the Rehabilitation Act. The DPM may not request medical information when the disability or need for accommodation is obvious. Such an obvious disability could be impaired vision, or an inability to walk or speak. The DPM may, however, request medical information where the disability is not obvious. Examples of disabilities that are not obvious are: mental illness, learning disabilities, epilepsy, cancer, arthritis, and asthma.

The DPM will only request medical information to the extent reasonably necessary to establish that the requestor is an individual with a disability and/or needs the requested accommodation such as:

- The past, present, and expected future nature, severity, and duration of the impairment (e.g., functional limitations, symptoms, side effects of any treatments, etc.);
 - The activity or activities the impairment limits;
 - The extent to which the impairment limits the individual's ability to perform the activity or activities; and/or
 - Why the individual requires the particular accommodation requested, and how the accommodation will assist the individual to apply for a job, perform the essential functions of the job, or enjoy a benefit of the workplace.
2. Once the medical information is received, the DPM will evaluate it, in consultation with a Medical Review Officer chosen by CPSC, if necessary. If the information provided by the requestor's health care provider (or the information volunteered by the requestor) demonstrates that a reasonable accommodation is appropriate, the DPM will notify the decision maker about the employee's functional limitations, including the necessary restrictions on the work or duties of the employee. However, the DPM will **only** disclose medical information if strictly necessary.
 3. The DPM may request additional medical information from the employee or applicant if the information does not clearly explain the nature of the disability or the need for reasonable accommodation, or if needed to clarify how the requested accommodation will assist the employee in the performance of the essential function of the job, or to enjoy the benefits and privileges of the workplace. The request for additional medical information must be in writing (includes email) and must explain to the employee or applicant why the medical information is insufficient and identify the additional information needed to process the accommodation request. The DPM is not entitled to access the employee or applicant's entire medical record. Only medical records related to the disability and the need for accommodation may be requested. The agency's request for medical information will follow the requirements set forth in the EEOC's Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act (available on EEOC's internet website). Also note the following:
 - The DPM may have a medical expert, of the agency's choosing and at the agency's expense, review an applicant's or employee's medical information.
 - An applicant's or employee's failure to provide appropriate

documentation or to cooperate with CPSC's efforts to obtain such documentation shall result in a denial of the reasonable accommodation.

- If the employee has already provided CPSC with sufficient information to document the existence of the disability and his or her functional limitations, the DPM may not request that same medical information.
- CPSC may periodically request documentation to ensure that the need for accommodation is effective and that the need for the accommodation continues.

f. Confidentiality and Disclosure

1. Federal law requires that medical information and documentation related to the reasonable accommodation process be treated as confidential medical information. For these purposes, confidentiality means that medical information and documentation must be kept in files separate and apart from the personnel files of the applicant or employees. These files should be maintained in a locked and secure location. Any CPSC employee who obtains or receives information is strictly bound by these confidentiality requirements.
2. The DPM will maintain custody of all records obtained or created while processing requests for reasonable accommodation, including medical records, and will respond to all requests for disclosure of the records. This information may be disclosed only as follows:
 - Information about necessary accommodations and/or work restrictions can be provided to supervisors or managers who need to know.
 - First aid and safety personnel may be informed if the disability may require emergency treatment.
 - Building managers (Facilities) and others planning for emergency evacuations may be informed in order to include special provisions in emergency evacuation planning and procedures.
 - First aid and safety personnel may be informed if the disability might require emergency treatment.
 - Government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act.

- Other agency officials who have an official need to know in order to execute their mission; for example, agency attorneys, the Office of Facilities, OSHA, EXRM personnel, medical experts, and OEEOME staff.
 - In certain circumstances Workmen's Compensation offices or insurance carriers may be provided with medical information. See 29 C.F.R. 1630.14 (b), 1630.16 (f).
3. If medical information is disclosed in any of the circumstances above, the agency official divulging the information must inform the persons receiving the information of the requirement of confidentiality.
 4. The DPM, in conjunction with the Director of OEEOME, shall ensure that medical records are kept confidential and maintained in files separate from the employee's official personnel file. The DPM decides to whom and under what circumstances medical information may be disclosed, subject to the exceptions listed immediately above.
 5. All applicable federal confidentiality laws, regulations and policies apply with regard to the disclosure of information obtained or received while processing requests for reasonable accommodation.

g. Denial of Reasonable Accommodation and Request for Reconsideration

1. The decision maker must consult with the DPM before denying a reasonable accommodation request. If following consultation with the DPM the request for reasonable accommodation is denied, the decision maker will inform the requestor in writing (Appendix D), and explain the reasons for denial and procedures for reconsideration. The denial notice will clearly specify reasons for the denial, such as: why the medical documentation is inadequate to establish that the individual has a disability or needs reasonable accommodation; why the requested accommodation would not be effective; or why the accommodation would pose an undue hardship to the agency. If the decision maker determines that an accommodation other than the one requested is appropriate, the denial of the request should explain the alternative accommodation that is being offered.
2. The decision maker also shall notify the requestor of the requestor's rights following a denial. The decision maker shall notify the requestor that he/she has a right to file a request for reconsideration. The decision maker also shall notify the requestor that he or she may file an EEO complaint pursuant to 29 C.F.R. §

1614, may have rights to pursue a Merit Systems Protection Board (MSPB) appeal, or a union grievance.

- For an EEO complaint, pursuant to 29 CFR § 1614, contact OEEOME within 45 days from the date of the notice of denial of reasonable accommodation. If a complaint is filed, OEEOME will send the complaint to a third party for processing in accordance with section 3(m) (Conflict of Interest); or
 - For a collective bargaining claim, file a written grievance in accordance with the provisions of the applicable collective bargaining agreement; or
 - Initiate an appeal to the MSPB within 30 days of an appealable adverse action, as defined in 5 CFR § 1201.3.
3. Within five (5) business days upon receipt of the denial notice, the requestor can request prompt reconsideration of the denial of reasonable accommodation by taking the following steps:
- Request the decision maker to reconsider his/her denial. Additional information may be presented to support the request. The requestor may present new evidence and additional information in support of his/her request for reconsideration. The decision maker that handles the request for reconsideration must respond to the requestor within ten (10) business days.
 - If the decision maker does not reverse the denial, and the decision maker was the employee's first line supervisor, the requestor can seek reconsideration from the second line supervisor. The second-line supervisor decision is the final decision on the reconsideration request and must be issued within ten (10) business days of receipt of the request.
4. Seeking reconsideration from the decision maker and appealing to the second line supervisor does not alter the time limits for initiating statutory and collective bargaining claims. An individual's participation in any other informal dispute resolution process does not satisfy the requirements for bringing a timely claim under EEO, MSPB, or union grievance procedures. The deadline for filing any statutory appeal (EEO or MSPB) or any union grievance procedure is determined by the date the employee's request was first denied in writing as described in paragraph g(1) above.

h. Reassignment

1. Reassignment is a form of reasonable accommodation that must be provided, absent undue hardship, to an employee who, because of a disability, can no longer perform the essential function(s) of the position he/she holds, with or without reasonable accommodation. Reassignment is a “last resort” accommodation that must be considered if there are no effective accommodations that would enable the employee to perform the essential functions of his/her current job, or if all other possible accommodations would impose undue hardship. However, reassignment may be made only to a vacant position. The law does not require that agencies create a new position or move employees from their jobs in order to create a vacancy.
2. In considering whether there are positions available for reassignment, the DPM will work with both the Director of EXRM and the employee requesting the accommodation to identify possible vacant positions. The Director of EXRM is responsible for conducting the search for a reassignment, and will focus on positions that are equivalent to the employee’s current job in terms of pay, status, grade level, and other relevant factors. An employee must be qualified for the new position and be able to perform the essential functions of the new position, with or without reasonable accommodation. If there is no vacant equivalent position, the agency will consider vacant lower level positions for which the employee with a disability is qualified.
3. Reassignment as a form of reasonable accommodation only applies to employees. Reassignment does not apply to applicants for a position.

i. Undue Hardship

1. The law does not require the CPSC to provide any and every accommodation an applicant or employee requests. The CPSC is only required to provide those accommodations that would allow the employee to perform the essential functions of the job, and which would not impose an undue hardship on the agency. However, if a decision denying a reasonable accommodation is based on a claim of undue hardship, the CPSC must demonstrate that the accommodation would cause significant difficulty or expense.
2. Accommodations that are unduly costly and require expenditure of significant sums of money are generally not required. Factors establishing hardship based on cost include: (a) the nature and cost of the accommodation; (b) the overall financial resources of the CPSC; and (c) the effect on expenses and resources.

3. Accommodations that would change the fundamental nature of the office operations or impacts upon the operation of the office or facility are generally not required. Factors to be considered include:
(a) the impact on the ability of other employees to do their jobs, and
(b) the disruption likely to occur to the operation of the office.
4. If the CPSC determines that the requested accommodation will cause undue hardship, but that another reasonable accommodation will be effective and will not cause undue hardship, then the agency must provide that other reasonable accommodation.

j. Information Tracking, Record Keeping and Reporting

1. The DPM shall maintain records related to reasonable accommodation requests for the duration of the employee's tenure with the CPSC, or 5 years, whichever is longer.
2. When an employee or applicant files an EEO complaint alleging denial of reasonable accommodation, all records shall be maintained in compliance with federal records management policy.
3. The Director of OEEOME will provide an annual report to the Chairman for review and approval in accordance with Management Directive 715. The report shall contain the following information:
 - The number, type, and cost of accommodations that have been requested in the application process and whether those requests have been granted or denied.
 - The number, type, and cost of accommodations that relate to the benefits or privileges of employment and whether those requests have been granted or denied.
 - Each job (occupational series, pay grade and organizational element) for which reasonable accommodation was requested.
 - The types of reasonable accommodation that have been requested for each of the jobs cited above.
 - The reasons for denial of requests for reasonable accommodation.
 - The amount of time taken to process each request for reasonable accommodation.
 - The sources of technical assistance that have been consulted in working to identify possible reasonable

accommodation.

- A qualitative assessment of the CPSC's reasonable accommodation program, including any recommendations for improvement of policies and procedures.

k. Informal Dispute Resolution

1. CPSC encourages individuals who have been denied requests for reasonable accommodation to avail themselves to the informal dispute resolution process (including mediation). Participation is strictly voluntary and all services will be performed by a third party in accordance with section 3(m) (Conflict of Interest).

l. Funding Accommodations:

1. Funding of accommodations, such as interpreters, readers, personal assistants, and job coaches, is the responsibility of the office where the individual making the request is employed.
2. Procurement of assistive technology can be requested through a federal program housed within the Department of Defense called CAP. CAP provides assistive technology and services for people with disabilities throughout the federal government free of charge. CAP will provide assessments, purchase the needed technology, train the employee on how to use it, and follow-up with updates.
3. CAP services may be assessed through their website at <http://www.cap.mil/>. All requests for technology shall be coordinated with the Section 508 Compliance Officer assigned to the Office of Information Technology (EXIT). OSHA will also provide funding to support the provision of reasonable accommodation items not covered through CAP.

m. Conflict of Interest

2. To avoid any conflict or appearance of a conflict of interest, the Director of OEEOME and all OEEOME personnel will recuse from participating in the processing of any formal or informal complaint challenging the agency's handling of an accommodation request. All complaints challenging the agency's handling of a reasonable accommodation request will be sent to a third party for processing.

4. EFFECTIVE DATE AND IMPLEMENTATION: This directive is effective immediately upon signature.

_____/s/_____
Ann Marie Buerkle, Acting Chair

Date

APPENDIX A

CONFIRMATION OF REQUEST FOR REASONABLE ACCOMMODATION

1. DATE OF REQUEST

2. TO (NAME OF FIRST-LINE SUPERVISOR)

3. NAME OF EMPLOYEE/APPLICANT

4. WORK PHONE

5. OFFICE/ORGANIZATION

6. POSITION TITLE AND GRADE

7. ACCOMMODATION REQUESTED (Be as specific as possible, e.g., adaptive equipment, interpreter, etc.)

8. REASON FOR REQUESTING REASONABLE ACCOMMODATION: (Identify functional limitations requiring a change in work place or application process. If accommodation is time sensitive, please explain.)

9. IS THIS REQUEST LIKELY TO BE REPEATED?: YES ☐ NO ☐ If yes, please explain.

SIGNATURE OF REQUESTOR/DATE

SIGNATURE OF SUPERVISOR/DATE

OEEOME TRACKING NUMBER (OEEOME WILL ASSIGN)

Scheduling Interpreter Services: The individual office scheduling a meeting or event requiring interpreting services (staff meeting, training, office function, etc.) is responsible for directing the request to the Disability Program Manager. Advance scheduling - preferably one to two weeks - is strongly encouraged, to the extent possible.

A copy of this request must be furnished to OEEOME for information tracking purpose. All requests for accommodation will be handled in a prompt and expeditious manner. All records of reasonable accommodation must be kept confidential.



**UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
BETHESDA, MARYLAND 20814**

APPENDIX B

Date:

MEMORANDUM FOR: Requestor's Name
[Employee Position Title]
[Office]

FROM: [Supervisor Name]
[Supervisor Position Title]
[Office]

RE: Decision on Reasonable Accommodation Request

Dear: _____:

The purpose of this letter is to inform you of my decision regarding your request for a reasonable accommodation dated _____ and received by _____ (notate how request was received) on _____.

In your request, you asked that the Consumer Product Safety Commission (CPSC) provide you with (describe the requested accommodation) because of your _____. (Explain the functional limitations and any other relevant information regarding the request).

After considering your request and relevant information, I have decided to _____ (grant/deny/grant with modifications) your request for _____. (Explain further, if the request was granted with modifications, the specific details of the facts and rationale behind that decision. If the request was denied, briefly state why and complete Appendix D "Denial of Reasonable Accommodation Request" form. Provide this memo and Appendix D to the requestor).

If you are dissatisfied with this decision, you may request reconsideration of my decision within five (5) business days from receipt of this letter and the "Denial of Reasonable Accommodation Request" form.

If you have any questions regarding this memorandum, you may contact [DPM information].

REASONABLE ACCOMMODATION INFORMATION REPORT

1. DATE OF REQUEST/DATE RECEIVED	2. REQUEST RECEIVED BY (NAME OF DECISION MAKER)
3. NAME OF REQUESTING EMPLOYEE/ APPLICANT	4. WORK PHONE
5. OFFICE/ORGANIZATION	6. POSITION TITLE AND GRADE

7. Reasonable accommodation needed for (check one):

☐ Application Process
 ☐ Performing job functions or accessing the work environment

☐ Accessing a benefit or privilege of employment (e.g., attending a training program or special event)

8. Types of reasonable accommodation requested (e.g., adaptive equipment, staff assistant, removal of architectural barrier, etc.).

9. Types of reasonable accommodation provided (if different from what was requested).

10. Reasonable accommodation (check one) (If denied, attach copy of the written denial letter/memo)

☐ Approved _____ Date
 ☐ Denied _____ Date

11. Date reasonable accommodation provided:

12. Please explain any reasons for delays in the processing of this request including any requests for medical information (any why it was required), if applicable.

13. Please detail any sources of technical assistance consulted in trying to identify possible reasonable accommodations (such as Job Accommodation Network, Department of Defense CAP, Department of Labor, and EEO Commission).

Any additional comments:

SIGNATURE OF DECISION MAKER

OEEOME TRACKING NUMBER

ATTACH COPIES OF ALL DOCUMENTS OBTAINED OR DEVELOPED IN PROCESSING THIS REQUEST AND FORWARD TO OEEOME.

DENIAL OF REASONABLE ACCOMMODATION REQUEST

1. To (Requestor)

2. Date Reasonable Accommodation Denied

3. Reasonable accommodation requested.

4. The request for reasonable accommodation is denied based on the following reason(s):

- Accommodation would not be effective ☐
- Accommodation would cause undue hardship ☐
- Refusal to provide medical documentation or allow an examination ☐
- Medical documentation is inadequate to establish that the individual is a qualified individual with a disability ☐
- Need for accommodation was not established ☐
- Accommodation would require removal of an essential function ☐
- Accommodation would require lowering of performance or production standard ☐
- Other (please identify) _____ ☐

5. Detailed reason(s) for the denial of reasonable accommodation (must be specific, e.g., why accommodation is ineffective or causes undue hardship):

6. If the requestor proposed one type of reasonable accommodation that is being denied, but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why the agency believes the chosen accommodation would be effective.

7. If the requestor wishes to request **reconsideration** of this decision, he/she may ask the decision-maker to reconsider his/her denial. Additional information may be presented to support this request. The decision-maker will respond to the request for reconsideration within 10 business days. If the decision-maker does not reverse the denial, the individual can ask the second line supervisor to do so.

8. If the requestor wishes to file an EEO complaint, or pursue a MSPB or union grievance, he/she must take the following steps:

- a. For an EEO complaint, pursuant to 29 CFR § 1614, contact the OEEOME within 45 days from the date of the notice of denial of reasonable accommodation; or
- b. For a collective bargaining claim, file a written grievance in accordance with the provisions of the agency's collective bargaining agreement; or
- c. Initiate an appeal to the Merit Systems Protection Board within 30 days of an appealable adverse action, as defined in 5 CFR § 1201.3.

Name of Decision-Maker

Signature of Decision-Maker/Date

APPENDIX E

RESOURCES FOR REASONABLE ACCOMMODATIONS

U.S. Equal Employment Opportunity Commission

1-800-669-3362 (Voice)

1-800-800-3302 (TTY)

The EEOC's publication center has free documents that can be obtained by request or from the internet site at <http://www.eeoc.gov/>.

The three main sources of interpretive information are: (1) the Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. §§ 1630.2(o), (p), 1630.9; (2) [Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act](#), 8 FEP Manual 405:7601 (1999); and (3) *A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act*, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992) (*Technical Assistance Manual*). The *Technical Assistance Manual* includes a 200-page Resource Directory, including federal and state agencies, and disability organizations that can provide assistance in identifying and locating reasonable accommodations.

The EEOC also has discussed issues involving reasonable accommodation in the following guidance and documents: (1) [Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations](#) at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995); (2) [Enforcement Guidance: Workers' Compensation and the ADA](#) at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996); (3) [Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities](#) at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997); (4) [Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964](#) at 6-9, 8 FEP Manual (BNA) 405:7371, 7374-76 (1996); and (5) [Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act](#) at 20, 22, 23, 24-5, 8 FEP Manual (BNA) 405:7701, 7711, 7712-14, 7715-16 (2000).

All of the above-listed documents, with the exception of the *Technical Assistance Manual* and the poster, are also available through the Internet at www.eeoc.gov. All of these documents provide guidance that applies to federal agencies through the Rehabilitation Act of 1973, 29 U.S.C. § 791.

Job Accommodation Network (JAN)

1-800-232-9675 (Voice/TTY)

<http://askjan.org/>

A service of the Department of Labor's Office of Disability Employment Policy, JAN can provide information, free-of-charge, about many types of reasonable accommodations.

ADA Disability and Business Technical Assistance Centers (DBTACs)

1-800-949-4232 (Voice/TTY)

The DBTACs consist of 10 federally funded regional centers that provide information, training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance, and places special emphasis on meeting the needs of small businesses. The DBTACs can make referrals to local sources of expertise in reasonable accommodations.

Registry of Interpreters for the Deaf

333 Commerce Street
Alexandria, VA 22314

(703) 838-0030 (V)

(703) 838-0459 (TTY)

(703) 838-0454 (Fax)

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

Office hours: Monday – Friday, 9:00AM to 5:00 PM EST

The Registry of Interpreters for the Deaf, Inc. (RID), is a national membership organization of professionals who provide sign language interpreting/transliterating services for Deaf and Hard of Hearing persons. It is the goal of RID to promote the profession of interpreting and transliterating of both American Sign Language and English. RID's mission is to provide international, national, regional, state, and local forums by providing an organizational structure for the continued growth and development of the professions of interpretation and transliteration of American Sign Language and English. The RID national office has at its disposal a vast array of informational resources on the field of interpreting, including papers.

Sign Language Associates, Inc.

11160 Viers Mill Road, Suite 506

Wheaton, Maryland 20902

(301) 946-9710 V/TTY, www.signlanguage.com

National Captioning Institute

1900 Gallows Road, Suite 3000 Vienna, VA 22182
(703) 917-7600

Federal law requires that all videos include captions, preferably open captions. The National Captioning Institute can add captions to videos.

USDA TARGET Center

1400 Independence Ave
Room 1006-S
Washington DC 20250-9876
(202) 720-2600 (Voice/TTY)
(202) 720-2681 (FAX)
<http://www.dm.usda.gov/oo/target/>

The Target Center has a wide variety of assistive devices available for Federal employees to examine and test.

Computer/Electronic Accommodations Program (CAP)

(703) 681-8813 (Voice)
(703) 681-0881 (TTY)
<http://cap.tricare.mil>
<http://cap.tricare.mil/Request/Request.aspx>

CAP provides assistive technology accommodations and services to persons with disabilities at the Department of Defense (DOD) and other Federal agencies at no cost to the requesting organization. CAP provides accommodations for individuals with hearing, visual, dexterity, cognitive and communication disabilities. CAP has been granted the authority to provide assistive technology, devices, and services to any department or agency in the Federal government upon the request of the head of the agency.

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

(703) 524-6686 (Voice)
(703) 524-6639 (TTY)
<http://www.resna.org/>

RESNA can refer individuals to projects in all 50 states and the six territories offering technical assistance on technology-related services for individuals with disabilities. Services may include:

- information and referral centers to help determine what devices may assist a person with a disability (including access to large data bases containing information on thousands of commercially available assistive technology products),

- centers where individuals can try out devices and equipment,
- assistance in obtaining funding for and repairing devices, and
- equipment exchange and recycling programs.