

NCUA



INSTRUCTION

NO. 1270.7 (REV)	DATE: 7/2/2015
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SUBJ: Reasonable Accommodation Policy and Procedures

TO: All NCUA Staff

REF: 29 United States Code (U.S.C.) Section 791 et seq.; 29 Code Federal Regulations (CFR) Part 1614.203; Title I (Employment) of the Americans with Disabilities Act (ADA) of 1990, as amended, 42 U.S.C. §§ 12101 et seq.; 29 C.F.R. part 1630; Executive Order 13164, 65 Federal Register 46565; and the Rehabilitation Act of 1973, as amended.

**ENCL: (1) Reasonable Accommodation Resource List
(2) NCUA Form 1686 - Reasonable Accommodation Request Form**

1. **PURPOSE.**

The purpose of this instruction is to state the policy and procedures for managing requests for reasonable accommodations for employees and applicants with disabilities.

2. **CANCELLATION.**

NCUA Instruction 1270.7, Reasonable Accommodation Procedures, dated October 4, 2002, is cancelled and is replaced by this revised instruction.

3. **BACKGROUND.**

Executive Order 13164 requires that federal agencies establish written procedures for processing requests for reasonable accommodation. The Executive Order guides agencies in implementing the Rehabilitation Act of 1973, as amended, requires an employer to provide reasonable accommodation to qualified employees and applicants for employment, except when such accommodation would cause undue hardship.

This instruction, originally issued on October 4, 2002, is revised to include the provisions of the Americans with Disabilities Amendments Act of 2008, and provides more effective guidelines for processing and monitoring reasonable accommodation requests.

4. **POLICY.**

NCUA's policy is to fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973, as amended. This policy applies to NCUA employees and applicants for employment. NCUA is committed to providing reasonable accommodations to its employees and applicants for employment in order to assure that individuals with disabilities enjoy full access to equal employment opportunity. NCUA will process requests for reasonable accommodation in a prompt, fair and efficient manner. NCUA will provide reasonable accommodations:

- A. When an applicant with a disability needs an accommodation to be considered for a job;
- B. When an employee with a disability needs an accommodation to enable him or her to perform the essential functions of the job at an acceptable level or to gain access to the workplace; and
- C. When an employee with a disability needs an accommodation to enjoy equal benefits and privileges of employment.

5. **DEFINITIONS.**

A. **Reasonable Accommodation.** The term reasonable accommodation means:

- 1) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires;
- 2) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable an individual with a disability who is qualified to perform the essential functions of that position; or
- 3) Modifications or adjustments that enable employees with a disability to enjoy equal benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities.

A reasonable accommodation may include, but is not limited to, the following:

- Job restructuring;
- Part-time or modified work schedules;

- Reassignment to a vacant position;
- Acquisition or modification of equipment or devices;
- Appropriate adjustment or modifications of examinations, training materials or policies;
- The provision of qualified readers or interpreters; and
- Other similar accommodations for individuals with disabilities.

B. **Qualified Individual with a Disability.** A qualified individual with a disability is a person who satisfies the requisite skill, experience, education and other job-related requirements of the employment position that such individual holds or desires, and who, with or without reasonable accommodations, can perform the essential functions of such positions.

C. **Disability.** A disability is defined as a:

- 1) Physical¹ or mental² impairment that substantially limits³ one or more major life activities⁴;
- 2) Having a record of such an impairment⁵; or
- 3) Being regarded as having such an impairment.

¹ Physical 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, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

² Mental Impairment. Any mental or psychological disorder, such as an intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

³ Substantial Limitation. An impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered a disability.

⁴ Major Life Activities. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, standing, hearing, speaking, breathing, reading, eating, sleeping, communicating, bending, lifting, concentrating, learning, and working. Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

⁵ Record of an Impairment. Having a history of, or misclassified as having, a mental or physical impairment that substantially limits a major life activity. Individuals in this category may be entitled to reasonable accommodations.

D. **Essential Functions.** Essential functions are the fundamental job duties of the employment position the individual with a disability holds or desires. A function can be *essential* if, among other things:

- The position exists to perform that function;
- There are a limited number of other employees who could perform the function or who the function can be distributed amongst; or
- The function is highly specialized and the individual is hired based on his/her ability to perform it.

E. **Undue Hardship.** An undue hardship means that an accommodation would be unduly costly, extensive, substantial or disruptive, or would fundamentally alter the nature or operation of the business. If a particular accommodation would be an undue hardship, the agency must try to identify another accommodation that will not pose such a hardship. The following factors should be considered to determine undue hardship:

- Nature and cost of the accommodation.
- Overall size of the organizational unit with respect to the number of employees, facilities, and size of the budget.
- The impact of the accommodation on the operation of the agency, including the impact on the ability of other employees to perform their duties and the impact on the organization's ability to conduct business.

6. **RESPONSIBILITIES.**

A. **Regional Directors and Office Directors are responsible for:**

- Ensuring compliance with NCUA policies and procedures for the provision of reasonable accommodations.
- Providing leadership within the regions and offices to ensure adequate budget, staff and resources for the provisions of reasonable accommodations.
- Ensuring subordinate supervisors and managers receive training on their responsibilities for the provision of reasonable accommodations.
- Ensuring a discrimination-free workplace and equal opportunity for employees and applicants with disabilities.

- Acting as the decision-maker; in making determinations about accommodations requests from employees.

B. Managers and Supervisors are responsible for:

- Actively engaging in the interactive process with employees who request reasonable accommodations to solicit any additional information needed to make timely determinations on all reasonable accommodation requests.
- Acting as the decision-maker when delegated by Regional and Office Directors.
- Providing appropriate reasonable accommodations for applicants and employees with disabilities.
- Notifying the Disability Program Manager in the Office of Minority and Women Inclusion when they receive a request for an accommodation, and working with agency officials to determine appropriate reasonable accommodations.

C. The Director, Office of Human Resources (OHR) is responsible for:

- Advising NCUA management officials and HR staff on the application of reasonable accommodations for applicants and employees with disabilities.
- Ensuring that building, training and testing facilities, equipment, and related materials are accessible for employees with disabilities.
- Consulting with outside resources, where necessary, to assess an individual's medical condition or disability and the need for reasonable accommodations.
- Exploring and documenting reassignment efforts and counseling employees on disability retirement procedures.

D. The OHR Selective Placement Program Coordinator (SPPC) is responsible for:

- Providing policy and regulatory guidance to agency managers and supervisors on the NCUA Selective Placement Program.
- Serving as an NCUA resource and liaison for organizations concerned with the recruitment and hiring of persons with disabilities; and ensuring agency vacancy announcements are disseminated to those organizations.
- Coordinating applicant interviews and reasonable accommodations for applicants. Collecting applicant resumes and Schedule A hiring authority documentation.

- Monitoring agency workforce statistics to ensure affirmative employment goals and initiatives are met.
- Coordinating NCUA-wide reassignment searches and assisting in placement efforts for qualified employees who can no longer perform their essential functions.

E. The Director, Office of Minority and Women Inclusion (OMWI) is responsible for:

- Providing informal equal employment opportunity counseling and processing formal complaints of disability and reasonable accommodation discrimination.
- Developing policies and procedures for the application of reasonable accommodations.
- Providing oversight of agency programs and activities related to reasonable accommodations.
- Ensuring compliance by Regional and Office Directors, other supervisors and managers, and OHR responsible staff with the policies and guidelines outlined in this instruction.
- Responding to external reviews of agency reasonable accommodation programs.

F. Each employee is responsible for:

- Notifying designated agency officials of any impairment that may interfere with the performance of essential duties; and making the request for reasonable accommodations.
- Cooperating with management's efforts to explore, identify and monitor reasonable accommodation options.
- Providing the agency with timely, accurate and complete medical and other information necessary to make determinations regarding the reasonable accommodation request.
- Updating his/her Official Personnel Folder by submitting an OPM Self-Identification, Standard Form 256 to the Office of Human Resources for any impairment. Submission of the form is optional; however submitting the form assists the agency in monitoring and reporting on agency affirmative employment programs.

G. The Disability Program Manager (DPM) in the Office of Minority and Women Inclusion is responsible for:

- Providing consulting services to NCUA employees and managers regarding procedures for administering reasonable accommodations policies.
- Recording and tracking all accommodations as required by this instruction.

H. The Office of the Chief Financial Officer Division of Procurement and Facilities Management is responsible for:

- Ensuring agency buildings, restrooms, conference rooms, ramps, doorways and other architectural features are accessible.

I. The Office of Continuity and Security Management is responsible for:

- Ensuring agency evacuation and security procedures include provisions for employees with disabilities.

7. PROCEDURES.

The reasonable accommodation process begins as soon as the request for accommodation is made either orally or in writing. The request does not have to use any special words, such as “reasonable accommodation”, “disability”, or “Rehabilitation Act.” An individual with a disability may request a reasonable accommodation at any time, even if they have not previously disclosed the existence of a disability. Each request requires a response, but does not necessarily mean the employer is required to provide the accommodation.

A. Involved Parties.

- 1) **Employee.** An employee may request a reasonable accommodation orally or in writing from his/her supervisor, another supervisor or manager in his/her immediate chain of supervision, the Regional or Office Director, the Director of Management Services, the Disability Program Manager, or the Selective Placement Program Coordinator. The official contacted will notify the DPM within one to three business days of the request. The DPM will coordinate the request with the appropriate decision-maker.
- 2) **Applicant.** Applicants may request a reasonable accommodation orally or in writing from the DPM, the SPPC, or the NCUA staff with whom they have contact. The contacted staff will notify the SPPC within one to three business days of the request. The SPPC will coordinate the request with the appropriate decision-maker, and the DPM as necessary.

- 3) **Representative.** A family member, health professional, or other representative may request an accommodation on behalf of an NCUA employee or applicant. The official contacted will notify the DPM of the request within one to three business days. The DPM will contact the representative and where necessary, confirm the request with the employee.

- B. **Recurring and Ongoing Reasonable Accommodations.** An employee needing the same reasonable accommodation on a recurring basis must submit the enclosed *NCUA Form 1686 - Reasonable Accommodation Form - Part A Reasonable Accommodation Request* only for the first request. The employee requesting accommodation, however, must give appropriate advance notice (five to ten business days) each subsequent time the accommodation is needed. When the accommodation is needed on a regular basis (e.g., a weekly staff meeting), the employee should submit the request to a supervisor or office director. The DPM should ensure that an employee's supervisor makes the appropriate arrangements. In addition, the employee's supervisor or office director must provide the DPM with confirmation of the request.

- C. **Written Requests for Record Keeping Purposes.** Any individual who is requesting accommodations should complete the enclosed *NCUA Form 1686 - Reasonable Accommodation Form - Part A Reasonable Accommodation Request*, and forward the form and any relevant documents to the DPM. While written request is preferable, it is not required. If an individual with a disability requires assistance with this requirement, the staff member receiving the request will direct the person to the DPM.

- D. **Determining the Decision-Maker.** The NCUA official who receives the request must determine who will be responsible for deciding upon the request and forward it, if necessary, to that person within five business days of receiving the request. The person who makes the determination about the request for accommodation will be referred to as the "decision-maker."
 - 1) For accommodation requests from employees, the decision-maker will be the Regional Director or Office Director and may be delegated to supervisors.
 - 2) For accommodation requests from applicants, when the request is made prior to the interview, the decision-maker will be the OHR Director. When the request is made at the time of interview or later, the decision-maker will be the delegated official of the office. Decision-makers must designate acting decision-makers when they are not available to ensure the time frames are met.

The DPM, Directors of Management Services, and Employee Relations Specialists will be available to assist in the decision-making process. The decision-maker may also want to refer to the enclosed *Reasonable Accommodation Resource List* for suggested resources.

- E. **The Interactive Process.** Once the decision-maker receives a request, the parties should begin the interactive process to determine what, if any, accommodation should be

provided. This means that the individual requesting the accommodation, the supervisor or personnel management specialist, and the NCUA decision-maker must talk to each other about the request, the process for determining whether an accommodation will be provided, and any potential accommodation.

- 1) **Purpose.** The interactive process allows the decision-maker the ability to assess the employee's limitations against the performance of the essential functions of the job. The interactive discussion is imperative to the reasonable accommodation process and must be conducted. Decision-makers should focus only on exploring accommodation options, performance or conduct issues should not be discussed in this process.

- 2) **Prior to the Discussion.** The decision-maker will contact the requestor to acknowledge the receipt of the request and set up a time to conduct the interactive discussion. Managers should review the job description and determine the essential functions of the position, the amount of time spent on performing job functions, how they are performed (as distinguished from marginal functions) including:
 - Physical requirements for performing the job,
 - Behavioral characteristics essential for job performance,
 - Marginal functions not essential to job performance, and
 - Minimum qualification requirements essential for the position.

If required, and prior to the meeting, the decision-maker should ask the employee to forward a completed *NCUA Form 1686 - Reasonable Accommodation Form: Part A Reasonable Accommodation Request* to the DPM, along with the following:

- Documentation from a medical professional describing the impairment.
 - A professional medical opinion that describes the impact of the disability on the employee's ability to perform each essential function of the job.
 - Suggestions of reasonable accommodations for the performance of the essential functions affected or impacted by the employee's disability.
 - The decision-maker should inform the requestor that this information may be needed before a final determination can be made on the reasonable accommodation request.
- 3) **During the Discussion.** The NCUA decision-maker will:
 - a) Explain the decision-maker's role in the process;

- b) Explain the agency's responsibility to provide reasonable accommodation in accordance with the Rehabilitation Act;
 - c) Inform the requestor that he/she may be required to provide medical documentation to support the need for the accommodation requested;
 - d) Explain that the requestor's medical information will be kept confidential, but may be reviewed by staff who have a need to know; and
 - e) Discuss all options for accommodations and inform the requestor of any temporary accommodations available. The decision-maker should ask the employee what limitations or barriers are being experienced, what specific job tasks or equal opportunities are impacted by the limitations or barrier, and how those limitations could be overcome with a reasonable accommodation. The decision-maker should also be prepared to explore alternative accommodations with the employee, such as disability retirement.
- 4) **After the Discussion.** The decision-maker must document the discussion and provide a description of what was discussed on the attached *NCUA Form 1686 - Part C Reasonable Accommodation Reporting Form*.
- 5) **Requesting Medical Documentation.** In order to provide an effective accommodation, the agency must first determine whether the individual has a disability under the Rehabilitation Act, as amended. When the disability is known and the accommodation is obvious, the agency may not need to seek additional medical information. The agency will only request information sufficient to substantiate that the individual is entitled to the accommodation requested. The types of medical information or documentation that may be requested are the following:
- The past, present, and expected continuing nature, severity and duration of the impairment, e.g., functional limitations, symptoms, side effects or any treatments.
 - The activities the impairment limits;
 - The extent of the limitations;
 - The reason(s) the requestor requires a reasonable accommodation, and how it will assist the requestor in performing the essential functions of the job, applying for employment or enjoying a benefit in the work environment; and
 - Suggestions for reasonable accommodations from the individual's medical provider.
- 6) **Reviewing and Analyzing Requests for Reasonable Accommodation.** All requests for medical documentation should be directed to the DPM. The DPM will

review and evaluate medical documentation to determine its adequacy. Using a limited release signed by the requestor, the DPM may consult with the requestor's medical provider or a health practitioner chosen by NCUA, if necessary. After determining the sufficiency of the medical documentation, the DPM will review the completed reasonable accommodation request and provide suggestions or recommendations to the decision-maker.

If after receiving the information from the requestor, the agency determines it to be insufficient to decide on an effective accommodation, the decision-maker may request further information by any of the following options:

- By providing a standard memo to the requestor explaining why the information provided is insufficient, what additional information is needed, and why it is necessary for a reasonable accommodation determination. The requestor may decide to seek information from a medical provider.
- By asking the requestor to sign a limited release allowing NCUA or its contracted medical consultant to contact the individual's health care provider either directly or by submitting a list of specific questions.
- By using a health practitioner, chosen by NCUA to examine the requestor. This option is only available after the requestor received written notification regarding the insufficient information. Further, NCUA will cover the expense of the health practitioner.

Failure to provide appropriate documentation or to cooperate with NCUA's efforts to obtain such documentation can result in a denial of the reasonable accommodation request.

- 7) **Confidentiality Requirements Regarding Medical Information Obtained in the Reasonable Accommodation Process.** Under the Rehabilitation Act of 1973, as amended, medical information obtained in connection with the reasonable accommodation process, including information about functional limitations and reasonable accommodation needs must be kept in files separate from the individual's personnel file.
- a) NCUA employees who obtain or receive such information are strictly bound by these confidentiality requirements.
 - b) Medical information required for making job-related decisions will be provided to only those management officials with a demonstrated "need to know" in accordance with the Rehabilitation Act and its amendments.
 - c) All records obtained or created during the processing of a request for reasonable accommodation, including medical records, will be kept by the DPM and will be

maintained in accordance with the Privacy Act and the requirements of 29 CFR Part 1611.

- d) Nondisclosure of the Genetic Information and Nondiscrimination Act of 2008 (GINA) Protected Information: GINA prohibits employers and other entities covered by GINA Title II from requesting, requiring, or purchasing genetic information of employees or their family members, except as specifically allowed by this law. To comply with GINA, the request for medical information must state that the agency is asking that genetic information not be provided when responding to the request for medical information.

8) **Time Frames for Processing Requests and Providing Reasonable**

Accommodations. NCUA will process requests for reasonable accommodation and provide accommodations, where they are appropriate, within 20 business days. The clock starts when the requestor initiates his/her request, regardless of the method used (oral, email, written). The time necessary to process a request will depend on the nature of the accommodation requested and the receipt of sufficient supporting information.

- a) **Decision within 20 Business Days.** If a request for an accommodation does not require medical documentation and there are no extenuating circumstances, the decision-maker will process the accommodation request and provide a decision within 10 business days from the date the request is received, or sooner if possible. Since decision-makers may need the full 20 days to engage in the interactive process and collect all relevant information about possible accommodations, they should not delay beginning this process. Failure to meet this time frame solely because a decision-maker delayed processing the request is not an extenuating circumstance.

An example of an accommodation which can be easily provided within the 10-day time frame includes an employee with diabetes who sits in an open area and requests breaks during the day to test her blood sugar.

- b) **Expedited processing.** There are two circumstances in which a request for reasonable accommodations requires an expedited review and decision. The two circumstances are discussed below:

- **To enable an individual to apply for a job.** This includes applying for a job, communicating with agency hiring officials, attending an interview, and testing. Depending on the timetable for receiving applications, conducting interviews, and making hiring decisions, there may be a need to expedite a request for reasonable accommodation to ensure that an applicant or employee with a disability has an equal opportunity to participate in the employment process.

- **To enable an individual to engage in an agency activity that is scheduled to occur shortly.** This includes attending a meeting, training program, agency functions, etc. In these cases, there may be a need to expedite a request for reasonable accommodation to ensure that an employee with a disability has equal opportunity in the workplace.
- 9) **Time Stops for Medical Documentation.** The decision period is suspended when the agency believes that it is necessary to obtain medical information to determine whether the requesting individual has a disability and/or to identify the functional limitations, the agency will request the medical information as soon as possible after his or her receipt of the request for accommodation, but before the expiration of the 20 business days. The need for documentation may occasionally not become apparent until after the interactive process has begun.
 - 10) **Time Starts upon Receipt of Medical Documentation.** Upon receipt of acceptable medical documentation, the DPM will review and evaluate the documentation, and consult with the appropriate agency representatives and, if necessary, forward the medical documentation to the agency's medical consultant for review. A decision will be provided within the remaining number of business days from the date the time was frozen due to the request for medical documentation, absent any extenuating circumstances as described below.
 - 11) **Extenuating Circumstances.** An extenuating circumstance covers limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. These factors could not be reasonably anticipated or avoided prior to submitting the accommodation request.

When extenuating circumstances are present, the time for processing an accommodation request and providing the accommodation is extended as reasonably necessary. It is NCUA's policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. All NCUA staff are expected to act as quickly as reasonably possible in processing requests and providing accommodation. NCUA may not delay processing or providing an accommodation because a particular staff member is unavailable.

Where extenuating circumstances are present, the decision-maker must provide the requestor a written explanation for the delay, and the approximate date on which a decision, or provision of the reasonable accommodation, is expected. Any further developments or changes should also be communicated promptly to the individual.

The following are examples of extenuating circumstances:

- a) There is an outstanding initial or follow-up request for medical information, or the medical consultant is evaluating medical information, which has been provided.

- b) The purchase of equipment may take longer than 20 business days because of regulatory or other requirements.
 - c) Equipment must be backordered, the vendor typically used by NCUA for goods or services has unexpectedly gone out of business, or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
 - d) The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before NCUA buys it.
- 12) **When Accommodations are Delayed.** If there is a delay in providing an approved accommodation, the decision-maker must investigate whether temporary measures can be taken to assist the employee. If a delay is attributable to the need to obtain or evaluate medical documentation and NCUA has not yet determined that the individual is entitled to an accommodation, NCUA may also provide an accommodation on a temporary basis.

In such a case, the decision-maker will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request. NCUA decision-makers who approve such temporary measures are responsible for assuring that they do not take the place of a permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken.

- 13) **Granting a Reasonable Accommodation Request.** The decision-maker should immediately notify the applicant or employee when the accommodation request is granted. The decision-maker will also complete the enclosed *NCUA Form 1686 - Part D Decision of Request for Reasonable Accommodation*. If the accommodation cannot be provided immediately, the decision-maker must inform the individual of the projected time frame for providing the accommodation.
- 14) **Denial of Reasonable Accommodation Request.** When an accommodation request is denied, the decision-maker must complete *NCUA Form 1686 - Part E Denial of Reasonable Accommodation Request* and provide a copy to the individual who requested the accommodation. The explanation for denying the accommodation should be written in plain language, clearly stating the specific reasons for the denial.

Where the decision-maker has denied a specific requested accommodation, but offered an alternative accommodation not agreed to during the interactive process, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the decision-maker believes that the chosen accommodation will be effective.

Reasons for denying the accommodation request may include the reasons listed below. However, each reason must include a detailed explanation for denying the request. (For example, why the accommodation would not be effective or why it would result in undue hardship).

- a) The requested accommodation would not be effective.
- b) Providing the requested accommodation would result in undue hardship. Before making an “undue hardship” determination, the decision-maker must have explored whether other effective accommodations exist which would not impose undue hardship and therefore can be provided. The decision-maker should also consult with the Disability Program Manager. A determination of undue hardship means that NCUA finds that a specific accommodation would result in *significant* difficulty or expense, or would *fundamentally* alter the nature of NCUA’s operations.
- c) Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
- d) The requested accommodation would require the removal of an essential function.
- e) The requested accommodation would require the lowering of a performance or production standard.

In addition, the written notice of denial informs the individual that he or she has the right to file an EEO complaint or may have rights to pursue a Merit Systems Protection Board (MSPB) appeal, or negotiated grievance under the Collective Bargaining Agreement (CBA), Section 33, and Article 6. The notice also explains NCUA’s procedures available for informal dispute resolution.

- 15) **The Mediation Program.** An individual who is denied accommodations or is offered an alternative accommodation may request to participate in the Mediation Program. This informal process does not affect the time frame for instituting proceedings under the EEO procedures set forth under Title 29 CFR, Part 1614 or any other dispute resolution process. To initiate the EEO process, the employee must contact the OMWI EEO Intake Line at (703)518-6325 within 45 days of receiving the last denial letter. The deadline to initiate the EEO process begins on the date of the last denial letter issued.
- 16) **Reassignments.** There are specific considerations in the interactive process when responding to a request for 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 functions of the position he or she holds, with or without reasonable accommodation. Reassignment is a "last resort" accommodation that must be considered if there are no effective

accommodations which would enable the employee to perform the essential functions of his/her current job, or if all other possible accommodations would impose undue hardship.

- a) Reassignment is available only to employees and not to applicants. In addition, reassignment may be made only to a vacant position. The law does not require that agencies create new positions or move employees from their jobs in order to create a vacancy.
- b) In considering where there are positions available for reassignment, the decision-maker will work with OHR and the individual requesting the accommodation to identify:
 - All vacant positions within the agency for which the employee may be qualified, with or without reasonable accommodation; and
 - All positions which OHR has reason to believe will become vacant over the next 60 business days and for which the employee may be qualified. The agency will first focus on positions that are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, NCUA will consider vacant lower level positions for which the individual is qualified.
- c) Reassignment may be made to a vacant position outside of the employee's commuting area if the employee is willing to relocate. As with other transfers not required by management, NCUA is not obligated to pay for the employee's relocation costs.

17) **Reconsideration.** If an individual wishes reconsideration, he or she should first ask the decision-maker to reconsider the decision. The individual may present additional information in support of his/her request. The decision-maker will respond to the request for reconsideration within 20 business days. An individual's participation in the informal dispute resolution processes does not satisfy the requirements for bringing a claim under EEO or MSPB.

18) **Information Tracking and Reporting.** The decision-maker will ensure the enclosed *NCUA Form 1686 Reasonable Accommodation Information Reporting Form* is properly completed, signed, and submitted to the DPM within ten business days of the decision. Copies of all information, including medical information received as part of processing the request, should be attached. The DPM will maintain these records for the longer of the employee's tenure with NCUA or five years. The DPM will maintain statistics for reporting purposes to include the following:

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

- b) The jobs (occupational series, grade level, and organization location) for which reasonable accommodations have been requested.
- c) The types of reasonable accommodations that have been requested for each of those jobs.
- d) The number of reasonable accommodations, by type, for each job that have been approved, and the number of accommodations, by type, that have been denied.
- e) The number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment, and whether those requests have been granted or denied.
- f) The reasons for denial of requests for reasonable accommodation.
- g) The amount of time taken to process each request for reasonable accommodation.
- h) The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

19) **Relationship of Procedures to Statutory Claims.** This policy is in addition to statutory protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. Requirements governing the initiation of statutory claims, including time frames for filing such claims, remain unchanged.

An individual who chooses to pursue statutory remedies for denial of reasonable accommodation may choose one of the following options:

- a) For an EEO complaint, contact NCUA's OMWI EEO Intake Line at (703) 518-6325 within 45 days from the date of receipt of the written notice of denial.
- b) For an MSPB appeal, initiate an appeal to the MSPB within 30 days of an appealable adverse action as defined in Title 5 CFR 1201.3.

If a member of the OMWI staff has had any involvement in the processing of the request for reasonable accommodation, that staff member shall be recused from any involvement in the process of an EEO complaint in connection with that request, where possible.

8. **EFFECTIVE DATE.**

This instruction is effective immediately and will remain in effect until cancelled or superseded.

/S/
Mark A. Treichel
Executive Director

OMWI/EEO

Reasonable Accommodation Resource List

- 1. Department of Defense Computer/Electronic Accommodations Program (CAP).** As a partnership agency, CAP provides FREE assistive technology and accommodations to support individuals with disabilities in accessing information and communication technology. The Disability Program Manager, which is located in NCUA's Office of Minority and Women Inclusion is the point of contact and can be reached at (703)518-6325.
 - (703)-681-8813 (Voice/TTY).
 - <http://www.cap.mil/Default.aspx>
- 2. U.S. Equal Employment Opportunity Commission.** Provides managers and supervisors reasonable accommodation guidance.
 - 1-800-669-3362 (Voice)
 - 1-800-800-3302 (TTY)
 - http://www.eeoc.gov/laws/types/disability_guidance.cfm
- 3. Job Accommodation Network (JAN).** JAN provides free consulting services for federal employers, including one-on-one consultation about all aspects of job accommodations, compliance assistance with section 501 of the Rehabilitation Act, information about federal initiatives and hiring programs, and referral to federal resources. For accommodation ideas, search JAN's database (SOAR) at <http://askjan.org/soar/disabilities.html>
 - 1-800-232-9675 (Voice/TTY)
 - <http://askjan.org/empl/index.htm#fed>
- 4. ADA Disability and Business Technical Assistance Centers (DBTACs).** The Mid-Atlantic ADA Center provides information, guidance and training on the Americans with Disabilities Act (ADA), tailored to meet the needs of businesses, government entities, organizations, and individuals in the Mid-Atlantic Region.
 - 1-800-949-4232 (Voice/TT)
 - <http://www.adainfo.org/>
- 5. Disability.gov.** A federal government website for information on disability programs and services nationwide.
 - <https://www.disability.gov>
- 6. FEDS.** FEDS is an assembly of current, former, and retired federal employees and people with disabilities, who have an interest in improving the federal governments rate of employing, retaining, and advancing people with disabilities.
 - <http://www.fedsfirst.com/>
- 7. RESNA Technical Assistance Project.** RESNA is the premier professional membership organization dedicated to promoting the health and well-being of people with disabilities through increasing access to technology solutions.
 - (703) 524-6686 (Voice)
 - (703) 524-6639 (TTY)
 - <http://www.resna.org/>

PART A

REASONABLE ACCOMMODATION REQUEST FORM

{For NCUA Record Keeping Purposes}

Log No. _____

I. REQUESTOR'S INFORMATION

<p>Please check one: <input type="checkbox"/>Employee <input type="checkbox"/>Applicant</p>
--

- 1) **Name:**
- 2) **Telephone number where you can be reached:**
- 3) **Email Address:**
- 4) **Mailing Address:**
- 5) **Employee Title/Series/Grade:**
- 6) **Employee's Office and Supervisor's Name or Location of Vacancy:**
- 7) **Date of Request:**
- 8) **Medical Documentation:**
 - Attached
 - Previously provided
 - Will follow

The Agency may require reasonable information/documentation where the disability and/or need for accommodation is not obvious or otherwise known.

-
- 1) **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 social event):

2) Describe the reasonable accommodation you are requesting?

3) I have a mental or physical impairment described as:

4) My mental or physical impairment substantially limits the following major life activity(ies):

Requestor's Signature

Date

PART B

REQUEST FOR MEDICAL INFORMATION

I. Personal Information

1) Name of Employee:

2) Name of Medical Provider:

3) Address of Medical Provider:

4) Telephone Number of Medical Provider:

II. Questions to help determine whether an employee has a disability.

1) What is the physical or mental impairment?

2) How does the employee's limitation(s) interfere with his/her ability to perform the job function(s) or access a benefit of employment?

3) What major life activity (s) (includes major bodily functions) is/are affected?

III. Questions to help determine effective accommodations options.

If an employee has a disability and needs an accommodation because of the disability, the employer must provide a reasonable accommodation, unless the accommodation poses an undue hardship. The following questions may help determine effective accommodations:

1) Do you have any suggestions regarding possible accommodations to improve job performance or accessing benefits of employment?

2) How would your suggestions improve the employee’s job performance, or help the employee/applicant enjoy benefits of employment?

IV. Other comments.

Medical Professional’s Signature

Date

Privacy Act Statement

The Rehabilitation Act of 1973, 29 U.S.C. section 791, and Executive Order 13164 authorize collection of this information. The primary use of this information is to consider, decide, and implement requests for reasonable accommodation. Additional disclosures of the information may be: To medical personnel to meet a bona fide medical emergency; to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding; to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; and to an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee.

The Genetic Information Nondiscrimination Act of 2008 (GINA)

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

PART C

REASONABLE ACCOMMODATION REPORTING FORM

Log No. _____

Enter the following information about the employee or applicant who requested the reasonable accommodation:

- 1) **Requester's Name:**
- 2) **Office & Location:**
- 3) **Current position or, if an applicant, desired position of the individual requesting Reasonable Accommodation (including position title, series, grade level, and office):**
- 4) **Reasonable Accommodation:**
 Approved (See Part D) **Denied (See Part E for further rights)**
- 5) **Date Reasonable Accommodation recommended:**
- 6) **Date Interactive Discussion held:**
- 7) **Name & Title of person who received initial request:**
- 8) **Date Reasonable Accommodation request referred to Decision Maker:**
- 9) **Name & Title of Decision Maker:**
- 10) **Date Reasonable Accommodation approved or denied:**
- 11) **Date Reasonable Accommodation provided:**
- 12) **If time frames outlined in the Reasonable Accommodation Procedures were not met, please explain why:**

13) Type(s) of reasonable accommodation provided (if different from what was requested):

14) Comments.

Decision-Maker Signature

Date

Disability Program Manager Signature

Date

Privacy Act Statement

The Rehabilitation Act of 1973, 29 U.S.C. Section 791, and Executive Order 13164 authorize collection of this information. The primary use of this information is to consider, decide, and implement requests for reasonable accommodation. Additional disclosures of the information may be: To medical personnel to meet a bona fide medical emergency; to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding; to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; and to an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee.

The Genetic Information Nondiscrimination Act of 2008 (GINA)

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

PART D

DECISION OF REQUEST FOR REASONABLE ACCOMMODATION

This document will comprise of details of the granted accommodation for the individual.

PART E

DENIAL OF REASONABLE ACCOMMODATION REQUEST

- 1) **Name of Individual requesting reasonable accommodation:**

- 2) **Type(s) of reasonable accommodation requested:**

- 3) **Request denied because: (May check more than one box)**
 - Accommodation Ineffective**
 - Accommodation Would Cause Undue Hardship**
 - Medical Documentation Inadequate**
 - Accommodation Would Require Removal of an Essential Function**
 - Accommodation Would Require Lowering of Performance or Production Standard**
 - Other (Please identify) _____**

- 4) **Detailed Reason(s) for the denial of reasonable accommodation.**

- 5) **If the individual proposed one type of reasonable accommodation which 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 you believe the chosen accommodation would be effective.**

- 6) **If an individual wishes to request reconsideration of this decision, he or she may take the following steps:**
 - a) **The individual may seek review of the decision by submitting a request to the Director of the Office of Minority and Women Inclusion (OMWI). The OMWI**

Director will forward within three (3) business days the request to the next-level official in the decision-maker's chain of command who was not involved in the processing of the original request. The applicant or employee must seek such review within five (5) business days of receipt of the written decision.

- b) Absent extenuating circumstances, the reviewing official should render a decision within five business days of receipt of the request.**
- 7) An individual who chooses to pursue statutory remedies for denial of reasonable accommodation may choose one of the following options:**
- a) For an EEO complaint, contact NCUA's Office of Minority and Women Inclusion's Intake Line at 703-518-6325 within 45 days from the date of receipt of the written notice of denial.**
 - b) For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement; or**
 - c) To file an appeal with the Merit Systems Protection Board (MSPB), the appeal must be initiated within 30 days of an appealable adverse action as defined in Title 5 CFR 1201.3.**

Decision-Maker Signature

Date

Disability Program Manager Signature

Date