

# APPENDICES

**APPENDIX 1:**  
**No Fear Act – Notification of Employee Rights**



# UNITED STATES NUCLEAR REGULATORY COMMISSION

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**Yellow Announcement:** YA-21-0062

**Date:** August 30, 2021

**Expiration Date:** July 22, 2023

**TO:** All NRC Employees

**SUBJECT:** NO FEAR ACT – ANNUAL NOTIFICATION OF EMPLOYEE RIGHTS

On May 15, 2002, Congress enacted the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act). The Office of Small Business and Civil Rights (SBCR) wants to take this opportunity to provide U.S. Nuclear Regulatory Commission (NRC) employees with an annual notification of their rights in the workplace. The intent of the Act, then and now, is to reduce the incidences of workplace discrimination by holding the NRC accountable, and to reinvigorate its obligation to provide a work environment free of discrimination and retaliation. As this information is made available to the general public, you can access the No FEAR Act data at <https://www.nrc.gov/about-nrc/civil-rights/crp/dca.html>.

## **Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020**

Congress recently enacted the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020, which amends the No FEAR Act. The Cummings Act increases Federal agencies' accountability by requiring the following:

- **Section 207 “Complaint Processing”** - Establish a system to track each complaint of discrimination arising and adjudicated through the Equal Employment Opportunity (EEO) process from the filing of a complaint with the agency to resolution of the complaint, including whether a decision has been made regarding disciplinary action as the result of a finding of discrimination.
- **Section 208 “Notation in Personnel Record”** - If the agency takes an adverse action against an employee for an act of discrimination (including retaliation), the agency shall, after all appeals relating to that action have been exhausted, include a notation of the adverse action and the reason for the action in the personnel record of the employee.
- **Section 401 “Processing and Resolution of Complaints”** - The agency is responsible for the fair and impartial processing and resolution of complaints of employment discrimination (including retaliation).
- **Section 401 “Processing and Resolution of Complaints”** - Establish a model Equal Employment Opportunity (EEO) Program that—
  - Is not under the control, either structurally or practically, of the agency's Office of the Chief Human Capital (OCHCO) or Office of the General Counsel (OGC);

- Is devoid of internal conflicts of interest and ensures fairness and inclusiveness within the agency; and
- Ensures the efficient and fair resolution of complaints alleging discrimination (including retaliation).
- **Section 402 “No Limitation on Advice or Counsel”** - Nothing shall prevent an agency or a subcomponent of an agency, or the Department of Justice, from providing advice or counsel to employees of that agency (or subcomponent, as applicable) in the resolution of a complaint.
- **Section 403 “Head of Program Supervised by Head of Agency”** - The head of each agency’s Equal Employment Opportunity (EEO) Program shall report directly to the head of the agency.
- **Section 404 “Referrals of Findings of Discrimination”** - Not later than 30 days after the date on which the Equal Employment Opportunity Commission (referred to in this section as the ‘Commission’) receives, or should have received, an agency report, the Commission may refer the matter to which the report relates to the Office of Special Counsel if the Commission determines that the agency did not take appropriate action with respect to the finding that is the subject of the report.

### **Antidiscrimination Laws and Reprisal**

The NRC cannot discriminate against an employee (current or former) or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, national origin, religion, sex (including sexual orientation, gender identity and/or expression, and pregnancy), disability, marital status, or political affiliation. The NRC is also prohibited from subjecting employees to reprisal (retaliation) for either participating in a protected activity or opposing practices made unlawful by relevant civil rights statutes and regulations. Discrimination of this type is prohibited by one or more of the following statutes: 5 United States Code (U.S.C.) §2302(b)(1); 29 U.S.C. §206(d); 29 U.S.C. §631; 29 U.S.C. §633a; 29 U.S.C. §791; and 42 U.S.C. §2000e-16. You can find more information about each of these statutes at <https://www.nrc.gov/about-nrc/civil-rights/crp/eo-statutes-regs.html>.

Although not specifically listed under the No FEAR Act, and covered under other statutes or agency policy, the NRC cannot discriminate against an employee with respect to the compensation, terms, conditions, or privileges of employment because of the employee’s genetic information, age, or military service. Discrimination of these types are prohibited by 42 U.S.C. §2000ff-1, 29 U.S.C. §621, and the NRC’s [Equal Employment Opportunity \(EEO\) Policy Statement](#).

It is the mission of SBCR to protect people by enabling the NRC to have a diverse and inclusive workforce, advance equal employment opportunities for employees and applicants, and to provide a fair and impartial process throughout EEO complaint processing. It is the goal of SBCR to create a work environment free from discrimination, harassment, and reprisal (retaliation). If you believe you may have been subjected to discrimination, harassment, or reprisal, you may initiate an EEO complaint by completing the [Civil Rights EEO Programs Contact Form](#) or e-mailing [EEOPrograms@nrc.gov](mailto:EEOPrograms@nrc.gov). You must contact SBCR within 45 calendar days from the date of the alleged discriminatory event or, in the case of a personnel action, within 45 days of the effective date of the action.

The Office of Special Counsel (OSC) is an independent agency that protects Federal employees from prohibited personnel practices, including unlawful hiring practices. If you believe you have been discriminated against based on marital status or political affiliation, you

may file a complaint with the U.S. Office of Special Counsel ([www.osc.gov](http://www.osc.gov)) online at <https://osc.gov/Pages/File-Complaint.aspx>.

### **Whistleblower Protection**

OSC also protects Federal employees from whistleblower retaliation. OSC also provides an independent, secure channel for disclosing and resolving wrongdoing in Federal agencies. An employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take (or fail to take) or threaten a personnel action against an employee or applicant because of disclosure of information that the employee reasonably believed to be a violation of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority, or a substantial and specific danger to public health or safety, unless such disclosure was specifically required by Executive Order to remain secret due to national security.

The NRC is prohibited from retaliating against a whistleblower employee because that individual exercised their rights under whistleblower protection laws (5 U.S.C. §2302(b)(8)). If you believe you have been the victim of retaliation for whistleblowing activities, you can contact the Office of the Inspector General at [whistleblower\\_coordinator@nrc.gov](mailto:whistleblower_coordinator@nrc.gov) or on 301-415-1146. The NRC encourages employees to review all the information on whistleblowing on the OCHCO [Whistleblower/Anti-Discrimination Web page](#).

### **Disciplinary Actions**

The NRC retains the right to discipline a Federal employee who engaged in discriminatory or retaliatory conduct, up to and including removal from Federal service. There is no provision under the No FEAR Act that alters existing laws or permits the NRC to take unfounded disciplinary action against an employee or to violate the procedural rights of an employee who was accused of discrimination.

Please be sure to read this announcement in its entirety and follow the links provided for additional information. If you should have any questions about this announcement, please feel free to e-mail SBCR at [EEOPrograms@nrc.gov](mailto:EEOPrograms@nrc.gov) or by telephone on 301-415-7380. Together, we can help SBCR achieve its goal of creating a workplace free from discrimination, harassment, and reprisal.

*/RA/*

Vonna L. Ordaz, Director  
Office of Small Business and Civil Rights

Management Directive Reference: MD 10.161, "[Civil Rights Program and Affirmative Employment and Diversity Management Program](#)," Directive Section III.E.14

**APPENDIX 2:**  
**Equal Employment Opportunity (EEO) Policy Statement**

# United States Nuclear Regulatory Commission

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## Subject: Equal Employment Opportunity Policy Statement

### Announcement Category

Policy Reminder

ML #

ML20052C127

Management Directive #:

10.161

**Yellow Announcement:** YA-20-0038

**Date:** May 18, 2020

**Expiration Date:** July 22, 2022

**TO: All NRC Employees**

**SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

Here at the U.S. Nuclear Regulatory Commission (NRC), we reaffirm our commitment to the principles of equal employment opportunity (EEO) and to eliminating unlawful discrimination in the workplace. The NRC will continue to demonstrate fairness and equity for all employees and job applicants seeking employment, regardless of their race, color, religion, sex (including sexual orientation, gender identity, and pregnancy), national origin, age, disability, marital status, parental status, political affiliation, military service, genetic information. The NRC will also continue to prevent employees (current and former) and applicants from being subjected to reprisal for either participating in a protected activity or opposing practices made unlawful by the relevant civil rights statutes and regulations.

The NRC will continue to be vigilant in cultivating a civil workplace that is free from discrimination, harassment, and retaliation by addressing and eliminating all forms of harassing behavior and misconduct, discrimination, and retaliation. All NRC employees must accept responsibility and accountability for ensuring compliance of all nondiscrimination laws and policies. In addition, managers and supervisors bear a greater responsibility in safeguarding equal employment opportunity for all employees by taking prompt and appropriate action to enforce this policy when incidents involving workplace harassment and discrimination are brought to their attention.

I want to thank you for your long-standing commitment and valued support in fulfilling the mission of the NRC. Together, our efforts to act with integrity, perform ethically and professionally, and to treat others the way we would like to be treated, will allow us to meet our goals and compliance requirements as a model employer and regulator.

For additional information regarding NRC's Civil Rights Program for EEO Complaints and Related Matters, please visit the [SBCR's Web Page](#) and/or contact Stephen Smith, CR Program Manager, the Office of Small Business and Civil Rights, at [stephen.smith2@nrc.gov](mailto:stephen.smith2@nrc.gov) or (301) 415-0192.

*/RA/*

Kristine L. Svinicki  
Chairman

Management Directive Reference: [MD 10.161, "Civil Rights Program and Affirmative Employment and Diversity Management Program"](#)



**APPENDIX 3:**  
**Alternative Dispute Resolution (ADR) Policy Statement**

# United States Nuclear Regulatory Commission

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## Subject: Alternative Dispute Resolution Program for Equal Employment Opportunity Complaints and Related Issues

### Announcement Category

From the Chairman

ML #

ML21188A105

**Yellow Announcement:** YA-21-0058

**Date:** August 19, 2021

**Expiration Date:** August 31, 2023

**TO: All NRC Employees**

**SUBJECT: ALTERNATIVE DISPUTE RESOLUTION PROGRAM FOR EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS AND RELATED ISSUES**

The U.S. Nuclear Regulatory Commission (NRC) reaffirms its commitment to promoting and sustaining an environment that works towards preventing and resolving workplace disputes and conflicts in a non-adversarial manner for all employees. While the NRC continues to strive to prevent workplace disputes and conflicts whenever possible, the Agency is committed to employing the principles of Alternative Dispute Resolution (ADR) in conflict situations and will seek to use them to achieve consensual resolution. As always, the NRC encourages its employees to express themselves and their differences of opinion in a respectful manner. ADR is a helpful avenue for both employees and supervisors to consider when addressing and resolving conflicts that may arise in the workplace.

Under the Alternative Dispute Resolution Act of 1996, Federal agencies are authorized and strongly encouraged to use ADR as a preferred option in making reasonable efforts to actively resolve workplace disputes and conflicts. By encompassing a variety of problem-solving techniques, ADR aims to prevent and resolve workplace disputes and conflicts in an amicable, fair, timely, equitable, and cost-effective manner. ADR techniques include facilitated discussions, coaching, conciliation, negotiation, and mediation—the method most used at the NRC. All ADR techniques incorporate the core principles of fairness, flexibility, voluntariness, neutrality, confidentiality, and enforceability.

While workplace disputes and conflicts may be addressed through the Equal Employment Opportunity (EEO) complaint process, the grievance process, and other forums, NRC fully supports and encourages senior leaders, managers and supervisors, and employees to use ADR as a voluntary option to resolve disputes and conflicts at the earliest and lowest possible level. Let's help all parties

identify their interests, communicate more effectively, and explore creative solutions for resolving workplace disputes and conflicts in our Agency.

For additional information regarding NRC's ADR Program for EEO Complaints and related issues, please access [SBCR's Web Page](#) and/or contact Rhonda Dorsey, ADR Program Coordinator, Office of Small Business and Civil Rights, at (301) 415-2254.

**/RA/**

Christopher T. Hanson  
Chairman

Management Directive Reference: MD 10.161, "[Civil Rights Program and Affirmative Employment and Diversity Management Program](#)," Handbook Section I.A.2

[U.S. Nuclear Regulatory Commission Alternative Dispute Resolution \(ADR\) Program Manual](#), dated October 25, 2019

**APPENDIX 4:**  
**Diversity and Inclusion Policy Statement**

# UNITED STATES NUCLEAR REGULATORY COMMISSION

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**Yellow Announcement:** YA-22-0019

**Date:** February 9, 2022

**Expiration Date:** July 22, 2022

**TO: ALL NRC Employees**

**SUBJECT: DIVERSITY AND INCLUSION POLICY STATEMENT**

It is my strongly held view and the policy of the Nuclear Regulatory Commission (NRC) to ensure that diversity, inclusion, and respect for every employee is an integral part of our day-to-day management and work. NRC employees must consider diversity and inclusion in all Agency operations and maintain a work environment free from discriminatory harassment and intimidation. As we have seen in our employee surveys, the behaviors and norms that reflect diversity and inclusion are paramount to our agency desired culture and represent the best of who we are at the NRC.

Executive Order (EO) 13583, "Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workplace," promotes the Federal Government to serve as a model of equal opportunity. It is my expectation that the NRC workforce uphold a strong commitment to equal opportunity for all employees and job applicants and that this expectation be communicated and supported by all members of the NRC. For more information on NRC's expectations, staff may reference Management Directive 10.161, "[Civil Rights Program and Affirmative Employment and Diversity Management Program](#)," Handbook Section II, "Affirmative Employment and Diversity Management (AEDM) Program."

The NRC's culture is based on fostering an open and collaborative work environment, such that all members of the workforce feel able to participate fully in carrying out the NRC's important regulatory responsibilities and raise concerns without fear of reprisal or retaliation. The NRC is focusing on efforts to share the principles of diversity and inclusion through training and related activities intended to provide awareness of, and appreciation for, our colleagues' different backgrounds, experiences, cultures, and views. An ideal workforce is an inclusive workforce, supported by an Agency that draws on the creativity and innovation produced by employees with diverse backgrounds, perspectives, experiences, approaches, and thoughts. To fully accomplish our important safety and security mission and address the challenges we face, it is imperative that we not only encourage, but welcome, all views to be openly shared and considered as we make significant regulatory decisions.

As Chairman, I am committed to advancing the principles of diversity and inclusion throughout the NRC. I encourage all employees to thoughtfully consider how to best support the NRC's [Inclusive Diversity Strategic Plan](#). Thank you for your commitment to the agency's diversity and inclusion policy, upholding the ideals of selfless public service, for bringing your whole selves to work every day, and for everything you do in our steadfast mission to protect the American public.

**/RA/**

Christopher T. Hanson  
Chairman

MD Reference: Management Directive 10.161, "[Civil Rights Program and Affirmative Employment and Diversity Management Program](#)," Handbook Section II, "Affirmative Employment and Diversity Management (AEDM) Program."

**APPENDIX 5:**  
**Preventing and Eliminating Harassing Conduct in the  
Workplace**

# United States Nuclear Regulatory Commission

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## Subject: Nuclear Regulatory Commission Policy for Preventing and Eliminating Harassing Conduct in the Workplace

### Announcement Category

Policy

ML #

ML22068A208

**Yellow Announcement:** YA-22-0024

**Date:** March 10, 2022

**Expiration Date:** March 10, 2027

**TO:** All NRC Employees

**SUBJECT: NUCLEAR REGULATORY COMMISSION POLICY FOR PREVENTING AND ELIMINATING HARASSING CONDUCT IN THE WORKPLACE**

I am pleased to inform you that the Office of the Chief Human Capital Officer (OCHCO) has updated its policy statement on harassment in the workplace.

Under the updated policy, the verbiage within the policy has been changed to be gender neutral. The updated policy language further states that within 10-calendar days of receiving an allegation under this Policy, the alleged harassee will be provided a "Notice of Rights" form, defines the "Notice of Rights" form, and updates the responsibilities of agency supervisors and managers to include the requirement to immediately report allegations of harassment to the Designated Official. The updated policy likewise states that where the inquiry establishes that an employee did engage in harassing conduct under this Policy, the U.S. Nuclear Regulatory Commission (NRC) will take immediate and appropriate corrective action, whenever it finds that harassment has occurred.

Although the policy and procedures have been updated, its purpose remains the same: to maintain an NRC work environment that is free from harassing conduct. The policy still provides specific procedures for reporting, investigating, and resolving allegations of harassment.

The NRC believes that it is all employees' shared goal to maintain a work environment that is positive, promotes professional and cooperative working relationships, and fosters trust and respect among employees. Employees must be aware of their rights and responsibilities in maintaining a work environment that is free from harassing conduct.



The Policy and Procedures for Preventing and Eliminating Harassing Conduct in the Workplace can be found on the OCHCO Web site at <https://drupal.nrc.gov/ochco/catalog/293>.

OCHCO has also updated the online training course that is available for all staff, "NRC's Policy and Procedures for Preventing and Eliminating Harassing Conduct in the Workplace (Anti-Harassment Training)," which provides further details on the policy and procedures.

We encourage all NRC employees to review this policy and take this training.

Mary A. Lamary **/RA/**  
Chief Human Capital Officer

Management Directive Reference: MD 10.99, "[Discipline and Adverse Actions](#)," Handbook Part III

# **APPENDIX 6:**

## **Whistleblower Protection Rights**

# United States Nuclear Regulatory Commission

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## Subject: Annual Notice of Whistleblower Protections Available to Federal Employees

### Announcement Category

Policy

ML #

ML21111A320

**Yellow Announcement:** YA-21-0036

**Date:** May 3, 2021

**Expiration Date:** May 3, 2026

**TO: All NRC Employees**

**SUBJECT: ANNUAL NOTICE OF WHISTLEBLOWER PROTECTIONS AVAILABLE TO  
FEDERAL EMPLOYEES**

The purpose of this memorandum is to ensure that all U.S. Nuclear Regulatory Commission (NRC) employees are informed of certain whistleblower rights and remedies available to them with respect to prohibited personnel practices.

The Whistleblower Protection Act of 1989 and the Whistleblower Protection Enhancement Act of 2012 provide the right for all covered Federal employees to make whistleblower disclosures and to ensure that employees are protected from whistleblower retaliation. The Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017 and the U.S. Office of Special Counsel (OSC) Reauthorization Act of 2017 further enhanced and reinforced these rights and protections.

The NRC does not tolerate whistleblower retaliation or any other prohibited personnel practice. All employees have an important role to play in promoting an environment in which employees feel free to raise workplace concerns without fear of reprisal or retaliation. Federal employees have the right to be free from prohibited personnel practices, including retaliation for whistleblowing. The NRC is committed to making sure that all employees are aware of their rights, as well as the safeguards that are in place to protect them.

OSC is an independent agency that protects Federal employees from prohibited personnel practices, including whistleblower retaliation and unlawful hiring practices. OSC also provides an independent, secure channel for disclosing and resolving wrongdoing in Federal agencies.

Whistleblowing is defined as the disclosure of information that an employee reasonably believes evidences a violation of any law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; a substantial and specific danger to public health or safety; or censorship related to scientific research or analysis. Employees may make lawful disclosures to anyone, including, for example, management officials, the Inspector General of an agency, and/or OSC. Employees can find OSC posters on whistleblowing on the Office of the Chief Human Capital Officer (OCHCO) [page](#).

The OCHCO page includes specific information on the following:

- **"Whistleblowing"**: Defines a "whistleblower" as someone who discloses information that they reasonably believe evidences a violation of any law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; a substantial and specific danger to public health or safety.
- **"Whistleblower Retaliation"**: Asks, "What is whistleblower retaliation?" A Federal employee authorized to take, direct others to take, recommend or approve any personnel action may not take, fail to take, or threaten to take any personnel action against an employee because of protected whistleblowing. Cites an example. Defines "protected whistleblowing."
- **"Prohibited Personnel Practices" (PPPs)**: Lists 14 prohibitions, including: whistleblower retaliation; discrimination for engaging in conduct unrelated to work performance, such as discrimination based on gender identity or sexual orientation; and hiring and promotion offenses that offend the merit system.

5 U.S.C. § 2302(b)(1)-(b)(14).

- **The Hatch Act: Permitted and Prohibited Activities for Most Federal Employees (poster)**: Lists permitted and prohibited activities for employees who may engage in partisan activity.

OCHCO encourages employees to review all the information on whistleblowing that may be found on the OCHCO page. Additional information about OSC's services can be found on the OSC Web site. If you have any questions or need additional information, please contact the agency's Whistleblower Protection Coordinator on 301-415-1146 or by e-mail to [Whistleblower Coordinator@nrc.gov](mailto:WhistleblowerCoordinator@nrc.gov).

Mary A. Lamary **/RA/**  
Chief Human Capital Officer

Management Directive Reference: MD 10.99 - Discipline and Adverse Actions

**APPENDIX 7:**  
**FY 2022 No FEAR Act Data Posted on the NRC Website**



# Equal Employment Opportunity Data Posted Pursuant to the No Fear Act:

## NRC (and below)

For 4th Quarter FY 2021 for period ending September 30, 2021

Pursuant to Section 301 of the [Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002](#) (the No Fear Act), the NRC has posted [summary statistical data](#) pertaining to complaints of employment discrimination filed by employees, former employees and applicants for employment under [29 CFR Part 1614](#). The specific data posted is described in section 301(b) of the Act and 29 CFR 1614.704.

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2021 Thru 09-30
	2016	2017	2018	2019	2020	
Number of Complaints Filed	17	19	20	19	25	<u>15</u>
Number of Complainants	17	19	20	19	25	15
Repeat Filers	0	0	0	0	0	0

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2021 Thru 09-30
<u>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</u>	2016	2017	2018	2019	2020	
Race	6	4	12	8	12	<u>6</u>
Color	3	1	5	2	1	<u>2</u>
Religion	2	1	1	1	0	<u>0</u>
Reprisal	9	11	8	12	14	<u>9</u>
Sex	8	10	13	9	8	<u>9</u>
PDA	0	0	0	0	0	<u>0</u>
National Origin	4	1	7	4	3	<u>1</u>
Equal Pay Act	0	0	0	0	1	<u>0</u>
	Comparative Data					

Complaints by Basis	Previous Fiscal Year Data					2021 Thru 09-30
	2016	2017	2018	2019	2020	
<b><u>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</u></b>						
Age	9	13	7	10	10	<u>6</u>
Disability	3	6	4	4	3	<u>0</u>
Genetics	0	1	0	0	0	<u>0</u>
Non-EEO	0	0	0	0	2	<u>0</u>

Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2021 Thru 09-30
<b><u>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</u></b>	2016	2017	2018	2019	2020	
Appointment/Hire	0	0	0	1	0	<u>0</u>
Assignment of Duties	6	9	8	5	8	<u>3</u>
Awards	0	4	0	3	3	<u>0</u>
Conversion to Full Time/Perm Status	0	0	0	0	0	<u>0</u>
<b>Disciplinary Action</b>						
Demotion	0	0	0	0	1	<u>0</u>
Reprimand	0	0	0	0	0	<u>0</u>
Suspension	1	1	1	1	0	<u>0</u>
Removal	2	0	1	0	1	<u>0</u>
Other	1	0	0	0	2	<u>0</u>
Duty Hours	0	0	0	0	0	<u>0</u>
Perf. Eval./ Appraisal	5	5	5	6	6	<u>7</u>
Examination/Test	0	2	0	0	0	<u>0</u>
<b>Harassment</b>						
Non-Sexual	8	10	11	10	11	<u>7</u>
Sexual	0	1	0	0	0	<u>0</u>
Medical Examination	0	0	0	0	0	<u>0</u>
Pay including overtime	0	0	0	3	0	<u>0</u>
Promotion/Non-Selection	5	6	2	7	6	<u>7</u>
<b>Reassignment</b>						
Denied	0	0	1	0	0	<u>2</u>
Directed	4	1	0	2	0	<u>1</u>

Complaints by Issue	Comparative Data	
	Previous Fiscal Year Data	2021



<b>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>Thru 09-30</b>
Reasonable Accommodation Disability	3	3	3	2	3	<u>0</u>
Reinstatement	0	0	0	0	0	<u>0</u>
Religious Accommodation	0	0	0	0	0	<u>0</u>
Retirement	0	0	0	1	0	<u>0</u>
Sex-Stereotyping	0	2	0	0	1	<u>0</u>
Telework	1	0	0	2	2	<u>0</u>
Termination	0	0	1	0	0	<u>1</u>
Terms/Conditions of Employment	2	1	2	3	9	<u>4</u>
Time and Attendance	3	4	1	1	6	<u>2</u>
Training	2	4	3	1	2	<u>1</u>
<b>Other</b>						
User Defined - Other 1	3	0	0	0	1	<u>0</u>
User Defined - Other 2	0	0	0	0	0	<u>0</u>
User Defined - Other 3	0	0	0	0	0	<u>0</u>
User Defined - Other 4	0	0	0	0	0	<u>0</u>

<b>Processing Time</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2021 Thru 09-30</b>
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	
<b>Complaints pending during fiscal year</b>						
Average number of days in investigation	223.82	262.15	271.50	285.30	262.36	283.85
Average number of days in final action	59.20	27.00	53.00	60.00	29.50	39.50
<b>Complaint pending during fiscal year where hearing was requested</b>						
Average number of days in investigation	253.17	255.78	274.00	322.67	247.00	292.64
Average number of days in final action	0	27.00	0	0	15.00	39.50
<b>Complaint pending during fiscal year where hearing was not requested</b>						
Average number of days in investigation	188.60	276.50	289.00	269.83	283.67	263.33
Average number of days in final action	59.20	0	53.00	60.00	0	0

<b>Complaints Dismissed by Agency</b>	<b>Comparative Data</b>	
	<b>Previous Fiscal Year Data</b>	<b>2021</b>

	2016	2017	2018	2019	2020	Thru 09-30
Total Complaints Dismissed by Agency	0	6	3	4	9	<u>2</u>
Average days pending prior to dismissal	0	298	88	256	266	266
<b>Complaints Withdrawn by Complainants</b>						
Total Complaints Withdrawn by Complainants	3	1	1	2	2	<u>0</u>

Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data										2021 Thru 09-30	
	2016		2017		2018		2019		2020		#	%
	#	%	#	%	#	%	#	%	#	%		
Total Number Findings	0		0		0		0		0		0	
Without Hearing	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
With Hearing	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2021 Thru 09-30	
	2016		2017		2018		2019		2020		#	%
	#	%	#	%	#	%	#	%	#	%		
<b>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</b>												
<b>Total Number Findings</b>	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
Color	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
Religion	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
Reprisal	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
Sex	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
PDA	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
National Origin	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
Age	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
Disability	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
Genetics	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	<u>0</u>	0

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2021	

<b>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</b>	2016		2017		2018		2019		2020		Thru 09-30	
	#	%	#	%	#	%	#	%	#	%	#	%
	<b>Findings After Hearing</b>	0		0		0		0		0		0
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings Without Hearing</b>	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Comparative Data</b>												
<b>Previous Fiscal Year Data</b>											<b>2021</b>	

Findings of Discrimination Rendered by Issue	2016		2017		2018		2019		2020		Thru 09-30	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Total Number Findings</b>	0		0		0		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
<b>Disciplinary Action</b>												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval./ Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
<b>Harassment</b>												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay including overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
<b>Reassignment</b>												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
											<b>Comparative Data</b>	
											<b>Previous Fiscal Year Data</b>	
											<b>2021</b>	

Findings of Discrimination Rendered by Issue	2016		2017		2018		2019		2020		Thru 09-30	
	#	%	#	%	#	%	#	%	#	%	#	%
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Define												
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings After Hearing</b>												
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval./ Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay including overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
<b>Comparative Data</b>												
<b>Previous Fiscal Year Data</b>											<b>2021</b>	

Findings of Discrimination Rendered by Issue	2016		2017		2018		2019		2020		Thru 09-30	
	#	%	#	%	#	%	#	%	#	%	#	%
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Define												
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings Without Hearing</b>												
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
<b>Comparative Data</b>												
<b>Previous Fiscal Year Data</b>											<b>2021</b>	



Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data					
	Previous Fiscal Year Data					2021 Thru 09-30
	2016	2017	2018	2019	2020	
Total complaints from previous Fiscal Years	8	9	8	11	13	<u>18</u>
Total Complainants	8	9	8	11	13	16
<b>Number complaints pending</b>						
Investigation	1	0	0	0	2	<u>2</u>
ROI issued, pending Complainant's action	0	0	1	1	1	<u>0</u>
Hearing	8	9	6	10	7	<u>14</u>
Final Agency Action	0	0	1	0	3	<u>1</u>
Appeal with EEOC Office of Federal Operations	4	5	5	5	9	<u>8</u>

Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					2021 Thru 09-30
	2016	2017	2018	2019	2020	
Pending Complaints Where Investigations Exceed Required Time Frames	1	0	0	3	7	<u>2</u>



## **APPENDIX 8:**

### **Reasonable Accommodation Policy and Procedures**



# U.S. NRC

United States Nuclear Regulatory Commission

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*Protecting People and the Environment*

## ***NRC Reasonable Accommodations Procedures***

**Office of the Chief Human Capital Officer  
(OCHCO)**

Revised 3/2017

## TABLE OF CONTENTS

NRC Policy on Reasonable Accommodations .....	1
Reasonable Accommodations Request Process.....	1
Medical Review .....	2
OGC Review.....	3
Approved Requests.....	3
Disapproved Requests .....	5
Reassignments .....	6
Requests for Reconsideration of Agency Decision .....	7
Reasonable Accommodations & Statutory and Collective Bargaining Claims .....	7
Information Tracking and Reporting .....	8
Timeframes for Processing Requests.....	8
Requesting Sign Language Interpreting Services.....	11
Reasonable Accommodations Resources .....	13
Appendix A: Key Terms.....	14
Appendix B: Medical Information Confidentiality .....	16

## **NRC Policy on Reasonable Accommodations**

Reasonable accommodations refers to modifications or adjustments to the work environment, manner, or circumstances under which a position is customarily performed which enables an applicant or employee with a disability to enjoy equal employment opportunities.

It is the policy of the Nuclear Regulatory Commission (NRC) to fully comply with the reasonable accommodations requirements of the Rehabilitation Act of 1973 and the Americans with Disabilities Amendments Act of 2008. Under the law, federal agencies must provide reasonable accommodations to qualified employees or applicants with disabilities, unless doing so would cause undue hardship to the Agency. The NRC strives to provide reasonable accommodations to all employees and applicants with disabilities to assure that individuals with disabilities enjoy full access to equal employment opportunities at the NRC. The Agency provides reasonable accommodations when:

An applicant with a disability needs accommodations to be considered for a job.

An existing employee with a disability needs accommodations to enable him or her to perform essential functions of the job or to gain access to the workplace.

An employee with a disability needs accommodations to enjoy equal benefits and privileges of employment.

The NRC is committed to processing requests for reasonable accommodations in a prompt, fair, and efficient manner utilizing an interactive process. Within five (5) business days of receipt of request, the Reasonable Accommodation Coordinator (RAC) or designee will begin reviewing the request and will keep the requestor and requestor's supervisor apprised of the status or the need for any additional information or other delay as the nature of the request demands.

Employees may refer to the Equal Employment Opportunity Commission's website about enforcement at <http://www.eeoc.gov/policy/docs/accommodation.html>.

### **1. Reasonable Accommodations Request Process**

**Employee/Applicant submits a formal request:** Requests for reasonable accommodations should be submitted directly to the RAC or designee. Requests for reasonable accommodations which are submitted to management officials other than the RAC or designee should be promptly forwarded to the RAC or designee. A family member, healthcare provider, or other representative may submit a request for reasonable accommodations either orally or in writing on behalf of the employee. A request does not require any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." While requests are not required to be in writing all requestors are encouraged to submit a request for reasonable accommodations using

NRC Form 726 to the RAC or designee through the Reasonable Accommodations Resource e-mail box at [Reasonable\\_Accommodations.Resource@nrc.gov](mailto:Reasonable_Accommodations.Resource@nrc.gov).

Employees are encouraged, but not required, to discuss a request with their supervisor who may be able to easily support a very simple accommodations request (e.g. a request for a different work schedule). If the employee does not discuss a request with his/her supervisor, please note that the RAC or designee will as part of the interactive process discuss the requested accommodations with the employee's supervisor to determine the limitations of the employee as it relates to performing the essential functions of the employee's position and possible effective accommodations.

For individuals applying for employment at the NRC, he/she should submit the request through the supporting Human Resource Specialist listed on the vacancy announcement, who will forward the request to the RAC or designee.

Contractors may submit reasonable accommodations requests related to accessibility only. It is the responsibility of the contractor to submit all other requests related to reasonable accommodations to the employer (the contracting organization). It is the responsibility of the contractor's employer (the contracting organization) to provide reasonable accommodations since the NRC is not their employer.

The RAC or designee will begin the review process within 5 business days of receipt. Requests may be for a permanent or temporary accommodations.

Types of requests include, but are not limited to:

*Assistive Technology*  
*Sign Language Interpreters*  
*Transcription Services*  
*Workstation modifications*

*Materials in alternative formats*  
*Special Software*  
*Work Schedule modifications*  
*Removal of Architectural Barriers*

**Medical Review (If Required):** When a disability and/or need for reasonable accommodations is not immediately obvious or otherwise already known, the RAC or designee may require the individual to provide acceptable medical documentation concerning the requestor's impairment, including functional limitations. In such cases, the RAC or designee will review the request to determine if additional medical information is required.

If the RAC or designee determines that additional medical information is necessary, he/she may either request the additional medical documentation from the requestor when appropriate and/or request that the employee sign a medical release. Once all medical information has been received, when appropriate the RAC or designee prepares a request for medical review by the NRC's contracted physician from the Federal Occupational Health (FOH). Once the medical review is completed a written assessment will be sent to the RAC or designee who will share this information with the requestor, and when appropriate with the supervisor, for further discussions

as part of the interactive process to help determine an effective accommodation. If an accommodation is approved, the RAC or designee begins coordination to implement the request.

In instances where additional medical documentation is not needed or review by FOH is not needed, the RAC or designee will facilitate the interactive discussion between the supervisor and the requestor to determine an effective accommodation solution, attempt to reach agreement, and where appropriate approve or deny the request and take appropriate steps to implement the accommodation solution set forth within 15 business days, if possible. Final approval of the request for reasonable accommodation will be provided to the requestor in writing.

The medical review is intended to substantiate the functional limitations and needs of the requestor to perform the essential functions of his/her job duties, the benefits and privileges of the workplace, or as an accommodation in the application process. NOTE: Agency requests for medical information will adhere to 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 at <http://www.eeoc.gov>). The requestor may be asked to sign a release form to designate FOH to review the medical information.

Failure by the requestor to provide appropriate documentation or to cooperate with the NRC's efforts to obtain such documentation may result in delay or denial of the reasonable accommodations request. Please refer to Appendix B for information regarding confidentiality of medical information.

**OGC Review (If required):** If an initial determination has been made to deny the request, the RAC or designee will request a review by the Office of the General Counsel before communicating any final decision to the requestor. If additional review is deemed to be warranted, the RAC or designee who will work with the FOH physician, the supervisor, and the requestor to obtain and review any additional information. If upon consultation from OGC, the RAC or designee makes the determination to deny the request, the RAC or designee will notify the requestor in writing. Depending on the nature of the reasonable accommodations request, the RAC or designee may opt to consult with OGC even if a denial is not anticipated.

## 2. Approved Requests

The RAC or designee is responsible for processing all reasonable accommodations requests, facilitating the interactive dialogue between the supervisor and requestor, and making the decision to approve or deny requests. Once all medical information has been received and reviewed, as applicable, the supervisor and the requesting employee have engaged in an interactive discussion, and a determination has been made to approve the reasonable accommodation request, the RAC or designee will notify the requestor in writing of the approval, if applicable, and take the requisite steps to coordinate implementation of the request.

Depending on the nature of the request, the RAC or designee will first seek to identify existing equipment/software/IT peripherals that are already available within the NRC. If not, the RAC or designee will then determine if the required item(s) are available through the Computer/Electronics Accommodation Program (CAP). CAP is a program administered by the Department of Defense. The NRC uses this vehicle to procure assistive technology, devices, software, and services for NRC employees. If CAP does not have the required item(s), or if the request is received when CAP support is unavailable (usually in the fourth quarter between July and September), the RAC or designee will coordinate with the appropriate authority to obtain the required items through the most expeditious and cost effective vendor available. Once items are received, the RAC or designee will coordinate installation through Office of the Chief Information Officer (OCIO), Office of Administration (ADM), or other offices, as appropriate.

Items processed through CAP frequently take between 2 to 4 weeks to be approved. CAP will only approve requests for individuals who have medical documentation indicating a diagnosed condition. Items procured without the assistance of CAP frequently take as long as 8 weeks to receive. In the event that a requested item cannot be obtained through CAP or if an accommodation is needed in the interim while requested items are being procured and shipped, the RAC or designee will facilitate the interactive discussion between the supervisor and the requestor regarding interim accommodations.

For reasonable accommodations requests that require a modification/reconfiguration of workspace or additions to the NRC infrastructure, the RAC or designee will coordinate changes with the employee's supervisor, OCIO, and ADM staff responsible for the new configurations as needed. It is essential that this coordination occur as it could affect staff who may be required to relocate or otherwise be impacted by any reconfiguration of office space. ADM involvement will be required for office reconfigurations and installations of furniture and equipment. OCIO involvement will be required for relocating computers, telephones, and/or redirecting network printer support to the requestor or nearby staff.

- **Reasonable Accommodations for furniture and workplace modifications:** Reasonable Accommodations requests for furniture must be processed through ADM with coordination from the RAC or designee who will submit the NRC Form 30. In order to process requests ADM must have the information regarding the "core features" of the furniture item needed to satisfy requests. ADM will provide furniture items that comply with the "core features" to address the functional limitations identified which may or may not be the actual items requested, using an item either from the NRC warehouse stock or by special purchase. If requests cannot be immediately satisfied from NRC warehouse stock items, ADM will keep the supervisor, employee, and the RAC or designee informed of the status of the special purchase and the expected date of delivery.
- **Reasonable Accommodations for IT hardware and software:** Reasonable accommodations requests for IT hardware and software require OCIO involvement. Any requests for IT hardware and software as a reasonable accommodation must be submitted to OCIO by the RAC or designee on the NRC Form 30. Hardware and software that will be new to the NRC infrastructure must proceed through security and functional testing. Testing and approval

frequently take 4-6 weeks or longer. OCIO and the RAC or designee will make every effort possible to identify hardware/software which is already approved. If requests cannot be immediately satisfied from OCIO stock items, OCIO will keep supervisor, employee, and the RAC or designee informed of the status of the special purchased and the expected date of delivery.

- **Ergonomics vs Reasonable Accommodations:** It is also important to note that obtaining IT equipment and/or furniture as an Ergonomic Request is a different process with different requirements than that for Reasonable Accommodations requests. The Ergonomics Program is an optional program that is not required by law or regulation. The purpose of the Ergonomics Program is to evaluate an employee's workstation and work habits to determine if modifications could or should be made to improve the employee's comfort, work performance, and productivity. On the other hand, the purpose of the reasonable accommodations program is to determine if modifications are needed because of an individual's disability. A request for IT equipment or furniture will be treated as a reasonable accommodations request and processed under the reasonable accommodations procedures when such a request is made because of a disability. If, however, the request is made simply for comfort, work performance, or productivity notwithstanding a disability, then such a request will be reviewed under the Ergonomics Program. Recommendations from the Ergonomics Programs to make modifications to an employee's workstation in response to an ergonomics request do not convey an entitlement to the employee for the recommended modification, and there is no mandate or obligation for the NRC to purchase the recommended item or make the recommended modification, unless the request also meets the requirements for a reasonable accommodation. In addition, the RAC or designee does not approve equipment or furniture purchases and cannot compel purchasing of such under the Ergonomics Program, unless the purchase is separately required as a reasonable accommodation. Information regarding the NRC's Ergonomics Program can be found on OCHCO's webpage at the following link: <http://www.internal.nrc.gov/HR/ergonomics.html>. Guidance on how to request ergonomic equipment can be found on OCIO's webpage under "Purchase IT Supplies and Services."

### 3. Disapproved Requests

In the event that a request for reasonable accommodations is denied by the RAC or designee, the requestor will be notified in writing by the RAC or designee and the notification will include an explanation regarding the basis of the denial. This explanation will include specific reasons for the denial (e.g. *why* the request would not be appropriate or *why* it would result in undue hardship to the Agency). As appropriate, the denial will include an alternate accommodation.

The following are a few examples of reasons for denying reasonable accommodations requests:

- The requested accommodation is not appropriate or effective.
- Providing the requested accommodation would result in undue hardship. Before reaching this determination, the RAC or designee must have explored whether other



effective accommodations exist which would not impose undue hardship and therefore could be provided. Undue hardship means the Agency finds that a specific accommodation would result in significant difficulty or expense, or would fundamentally alter the nature of Agency operations. When evaluating budgetary or administrative concerns to determine if undue hardship exists, the RAC or designee, in consultation with the supervisor, and OGC will follow the standards laid out in regulations and in the EEOC's *"Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (ADA)."*

- The requested accommodation would cause a direct threat to health or safety. Direct Threat means that an individual with a disability poses a significant risk of substantial harm to him/herself or others, and there are no accommodations that would lower the risk of harm below that level.
- Medical documentation is inadequate to establish the requestor has a disability and/or needs accommodations or the requestor has failed to provide requested documentation.
- The requested accommodations would require the removal of an essential function of the requestor's position. If this is the case, the denial must identify the essential function and why that function would need to be removed.
- The requested accommodations would require the lowering of a performance or production standard related to an essential function of the requestor's position. The denial in this scenario must identify the specific performance or production standard that would need to be lowered as well as the resulting impact of lowering the standard.

#### **4. Reassignments**

Reassignments as reasonable accommodations are required after it has been determined by the NRC that no other reasonable accommodations will permit the employee with a disability to perform the essential functions of his/her position. Reassignments are the "last resort" accommodation that absent undue hardship, may be provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of the job with or without reasonable accommodations. Reassignments are made only to vacant funded positions and only provided to employees who are qualified for the new position. If the employee is qualified for the position he/she may be reassigned to the job without competition.

Reassignments, by definition, may be made only to a position of equal or lower grade. Reassignments do not include giving an employee a promotion. An employee must compete for any vacant position that would constitute a promotion. Conversely, an employee would not have to compete for a vacant position that is of equal or lower grade as long as he/she is qualified for it.

The NRC is not obligated to approve a reasonable accommodations request for reassignment in order to change supervisor, if the cause is based on the failure to get along with a supervisor due to a personality conflict. Failure to get along with a supervisor or coworker due to a personality conflict is not equivalent to a substantial limitation in a major life activity and therefore does not meet the regulations definition of a disability. As an alternative, however, there may be a need to change supervisory method as a reasonable accommodation in these cases.

## **5. Requests for Reconsideration of Agency Decisions**

Requestors may request prompt reconsideration of denials of requests for reasonable accommodations. He/she should first consult with the RAC or designee to request any additional clarification regarding the basis for the denial. Any requests for reconsideration must be submitted to the RAC or designee in writing within five (5) business days after receipt of the denial notification and should include any updated information new to the case, if appropriate. The RAC or designee will provide the requestor with a decision within ten (10) business days of the receipt of request for reconsideration. If the requestor is not satisfied with the RAC's or designee's response, he/she may appeal the decision using the administrative processes outlined below.

A requestor whose reasonable accommodations request has been denied may also pursue statutory or collective bargaining claims, including filing a grievance under the NRC's negotiated grievance procedure, or filing a complaint with the Equal Employment Opportunity Commission (EEOC). Pursuing a request for reconsideration as identified above does not satisfy the requirements for bringing a statutory or collective bargaining claim, which is discussed in the following section.

## **6. Reasonable Accommodations & Statutory and Collective Bargaining Claims**

These reasonable accommodations procedures are in addition to the statutory and collective bargaining protections associated with the denial of reasonable accommodations requests for a person with a disability. Requirements governing the filing of such EEO complaints or a grievance, including the filing deadlines, are unchanged by these reasonable accommodation request procedures. An individual who opts to pursue such claims must follow the following procedures to file an EEO complaint or grievance:

**EEO Complaint:** Contact an NRC EEO counselor within 45 days from the date of receipt of the written notice of denial. Staff members involved in requests for reasonable accommodation must recuse themselves from any involvement in the processing of an EEO counseling contact or complaint in connection with that request, where appropriate, or if it creates a conflict of interest. Questions may be referred to the Office of Small Business and Civil Rights (SBCR) staff at (301) 415-7380 or

EEOPROGRAMS.resource@nrc.gov. For further information regarding procedures for EEO complaints, please refer to MD 10.161, "Civil Rights Program and Affirmative Employment and Diversity Management Program." Questions for SBCR may be sent to EEOPROGRAMS.resource@nrc.gov.

**Negotiated Grievance Procedure:** File a written grievance in accordance with the provisions of Article 46 of the Collective Bargaining Agreement between the NRC and the National Treasury Employees Union (NTEU). Applicants and contractors are not covered by the Negotiated Grievance Procedure.

## 7. Information Tracking and Reporting

The NRC shall maintain a system of records that tracks the number of reasonable accommodations requests, the type of reasonable accommodations requests, the number of requests granted or denied, reasons for denials, and the timeframes involved in cases processing.

## 8. Timeframes for Processing Requests

The NRC will process requests for reasonable accommodations and provide accommodations, where appropriate, in as short a time frame as reasonably possible. Interim accommodations may be approved as a temporary provisional measure for cases that present extenuating circumstances.

While the NRC recognizes that the time necessary to process a request will depend on the nature of the accommodation requested and the necessity to obtain supporting information, the following serves as a guideline that the Agency will strive to meet to provide expeditious reasonable accommodations.<sup>1</sup>

### Reasonable Accommodation Timeline

Action	Number of Business Days
Acknowledgement of initial request	1 to 5 days of receipt of request
Interactive discussion begins between the supervisor, the requesting employee, and the RAC or designee	1 to 5 days of receipt of request

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<sup>1</sup> The timeline is meant solely as a guide to help facilitate the expeditious processing of reasonable accommodations request(s). Where the agency has made reasonable efforts to promptly process a reasonable accommodations request(s), a missed deadline shall not, in and of itself, constitute a violation of this policy.

Initial review of request to determine need for additional medical documentation	1 to 5 days of receipt of request
Decision to approve or deny non-complex requests (No Medical documentation needed or other outside review)	1 to 5 days of receipt of request
Implementation of an approved non-complex request (No medical documentation or other outside review needed, and no furniture or software purchase is needed, and no furniture or software installation is needed)	5 to 10 days from date of request approval
Request for additional medical documentation, if needed	6 to 10 days of receipt of request
Additional medical documentation deadline	10 to 15 days from date of request for additional medical documentation
Medical documentation received and forwarded, if needed to FOH for medical review	1 to 5 days of receipt of medical documentation
FOH review and completion of written assessment (Time may vary depending on nature of medical issue presented or if FOH needs more information)	4 to 5 weeks after receipt of request for medical review
Interactive discussion continues to determine “effective” accommodations solution between supervisor, requesting employee, RAC or designee, and other appropriate internal and external stakeholders where applicable	5 to 10 days after receipt of FOH assessment
Decision to approve or deny accommodations and requesting employee issued written notification	5 to 10 days after receipt of FOH assessment
Implementation of approved accommodations solution for non-complex cases (No software or furniture needs to be purchased or installed)	5 to 10 days after receipt of written approval
If complex case is approved	2 to 8 weeks for accommodation solution to be purchase and installed
If denied, requesting employee requests reconsideration	5 days after receipt of denial

RAC or designee considers reconsideration and issues decision in writing	10 days after receipt for request for reconsideration
Request 3 <sup>rd</sup> Party Appeal	Any time after receipt of denial in accordance with EEO and the CBA guidelines

In addition, reasonable accommodations requests can be expedited in appropriate cases. Expedited processing might be necessary where, for example, reasonable accommodations are needed to enable the requester to apply for a job or reasonable accommodations are needed for a specific NRC activity that is scheduled to occur shortly, such as a meeting.

**Extenuating Circumstances:** "Extenuating circumstances" covers situations in which unforeseen or unavoidable events prevent prompt processing and delivery of accommodations. These are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodations. When extenuating circumstances are present, the time for processing a request for reasonable accommodations and providing the accommodations will be extended as reasonably necessary. It is the NRC's policy that extensions based on extenuating circumstances should be limited to situations where they are strictly necessary. The unavailability of a particular staff member is not considered an "extenuating circumstance" and will not be considered sufficient to justify a delay in processing or providing an accommodation. All NRC staff are expected to act as quickly as reasonably possible in processing requests and providing accommodations.

The following are a few examples of extenuating circumstances:

- The purchase of equipment may take longer because of requirements under Federal Acquisition Regulation;
- Equipment may be back-ordered, the vendor typically used 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;
- The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before it is purchased by the agency; and
- New staff needs to be hired or contracted for, or accommodations involves the removal of architectural barriers.

Where extenuating circumstances are present, the RAC or designee must notify the individual, as soon as possible, of the reason for the delay, and approximate date on which a decision on or provision of the reasonable accommodations is expected.

Any further developments or changes should also be communicated promptly to the individual. If there is a delay in providing accommodations which have been approved, the RAC or designee must investigate whether temporary measures can be taken to assist the employee. This could include providing the requested accommodations on a temporary basis or providing alternative accommodations: (1) if it does not interfere with the operations of the NRC; and (2) if the employee is clearly informed that it is being provided only on a temporary, interim basis.

For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the supervisor might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives.

If a delay is attributable to the need to obtain or evaluate medical documentation and the Agency has not yet determined that the individual is entitled to accommodations, the individual should be instructed to facilitate the forwarding of the appropriate medical documentation to the Agency.

More complex requests will be coordinated as appropriate by the RAC or designee. In general, OCHCO needs approximately 45 business days for the initial review of such requests.

## 9. Requesting Sign Language Interpreting Services

### •Hearing Impaired Employees

All hearing impaired employees are responsible for requesting interpreter services if needed for any meetings/training they plan to attend, absent NRC/Office wide events, absent extenuating circumstances, and absent confidential meetings requested by other offices.

All requests for sign language interpreting services should include: event title, date, starting time, ending time, location, description, and any agenda, handouts, and/or supporting materials. ***The information given aids the interpreter services in providing the best service for the meeting/training. Not including complete information in the request may cause a delay in assigning interpreter(s).*** Interpreter services for NRC/Office wide events such as, but not limited to, NRC/Office All Hands meetings and RIC Conference should be requested by the individual office or event organizer.

Any changes or updates to requests should be entered through the SharePoint calendar by the requestor. If a new request is added or if a request is changed/updated within 48 hours or less of the start of the request, then the requestor should enter the request and/or change immediately into the calendar and email [scheduledsls@gmail.com](mailto:scheduledsls@gmail.com) and the RAC or designee at [Reasonable\\_Accommodations.Resource@nrc.gov](mailto:Reasonable_Accommodations.Resource@nrc.gov). When there is very short notice within 48 hours or less, interpreters may not always be available and the requestor may need to consider rescheduling the meeting if possible or use an alternative accommodation.

If a meeting/training is expected to last longer than 60 minutes, arrangements must be made for at least two interpreters to provide sufficient rest periods, including a “sign free” lunch break if necessary. A break during a meeting or event does not constitute a rest period for the interpreter if he/she is expected to continue working (e.g. hearing impaired and hearing parties may wish to communicate during the break and look to the interpreter to facilitate the exchange).

Hearing impaired employee should make all interpreter service requests two weeks in advance (when possible) with all meeting/training details. Attempts will be made to fill all requests as best as possible dependent upon interpreter availability. In addition, all requests for sign language interpreting services should include: event title, date, starting time, ending time, location, description, and any agenda, handouts, and/or supporting materials.

#### **•Other NRC Staff and Individual Offices**

Interpreter services for NRC/Office wide events such as, but not limited to NRC/Office All Hands meetings and the RIC Conference should be requested by the individual office or event organizer. The individual office or event organizer is responsible for submitting a request to the RAC or designee at least two weeks in advance of the event. It is understood that this may not always be possible and the RAC or designee will make every effort to accommodate requests. However, when there is very short notice within 48 hours or less, interpreters may not always be available and the requesting office or event organizer may be forced to consider rescheduling the meeting.

Requests for interpreter services for confidential meetings, such as with the Office of the Inspector General (OIG), SBCR, OGC, and/or OCHCO, should be requested by the requesting office’s point of contact (POC). The requesting office’s POC should contact the RAC or designee to make arrangements for such meetings. When the requesting office’s POC contacts the RAC or designee, the name of the individual requiring the interpreting services, should not be provided. However, the date, starting time, ending time, and location of the meeting should be provided.

Requests for interpreter services for job applicants should be requested through the RAC or designee either by the job applicant, HR Specialist, or the requesting office’s POC.

If a meeting is expected to last longer than 60 minutes, arrangements must be made for at least two interpreters to provide sufficient rest periods, including a “sign free” lunch break if necessary. A break during a meeting or event does not constitute a rest period for the interpreter if he/she is expected to continue working (e.g. hearing impaired and hearing parties may wish to communicate during the break and look to the interpreter to facilitate the exchange).

Agency requests for sign language interpreting services should be sent to the RAC or designee through the Reasonable Accommodations Resource e-mail box at [Reasonable\\_Accommodations.Resource@nrc.gov](mailto:Reasonable_Accommodations.Resource@nrc.gov).

Last minute requests or changes to previous requests made by NRC staff (i.e., those within 48 hours or less) should be sent to [scheduledsls@gmail.com](mailto:scheduledsls@gmail.com) with a courtesy copy to the RAC or designee at [Reasonable\\_Accommodations.Resource@nrc.gov](mailto:Reasonable_Accommodations.Resource@nrc.gov). In addition, all requests for sign language interpreting services should include: event title, date, starting time, ending time, location, description, and any agenda, handouts, and/or supporting materials.

***NOTE: NRC employees or contractors who know sign language or who are taking a sign language class are not considered acceptable substitutes for professional contract interpreters.***

**•Escorting Sign Language Interpreters and/or Transcribers**

Escorting unbadged interpreters is the responsibility of the requestor of interpreting services. When a hearing impaired employee is the requestor he/she will be responsible for putting the interpreter into the NRC Visitor's System and providing the appropriate escort. If an NRC staff member submits the request for sign language interpreting services to support an NRC/Office wide event as explained above, the NRC staff member will be responsible for putting the interpreter information into the NRC Visitor's System and providing the appropriate escort. The RAC or designee will let the requestor know if an interpreter needs to be escorted and will only provide escorting services only in emergency situations where no other backup escort can be found by the requestor or requesting office.

**•Work Events Outside the Workplace**

The Agency will provide an interpreter for hearing impaired employees who, as a part of his/her job, attends a meeting or event outside the workplace. Requests for work events outside of the workplace are submitted in the same manner as hearing impaired employees requesting interpreting services as stated above.

**• Interpreting Telephone Calls**

Assistance is available for staff when a sign language interpreter is unavailable. For those staff requiring assistance, the Maryland Relay Service is available by dialing 7-1-1. More information is available at <http://doit.maryland.gov/mdrelay/Pages/default.aspx>. In addition, TDD calling has been replaced with a Videophone at 240-428-3217 to assist disabled callers from the public as well as disabled employees.

## **10. Reasonable Accommodation Resources**

U.S. Equal Employment Opportunity Commission ([www.eeoc.gov](http://www.eeoc.gov))

The EEOC's Publication Center has many free documents regarding the Title I employment provisions of the ADA, including both the statute, 42 U.S.C. 12101 et seq. (1994), and the regulations, 29 C.F.R. 1630 (1997). In addition, the EEOC has published a great deal of basic information about reasonable accommodations and undue hardship. The two 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. 630.2(o), (p), 1630.9 (1997), and
- (2) Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act III, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The 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.
- (3) The Computer Electronic Accommodation Program (CAP) – [www.cap.mil/](http://www.cap.mil/).
- (4) The Job Accommodation Network (JAN) – Voice: (800) 526-7234, TTY: (877) 781-9403. [www.askjan.com](http://www.askjan.com).

## Appendix A: Key Terms

**Computer/Electronics Accommodation Program (CAP):** Administered by the Department of Defense (DOD), the NRC uses this program to procure assistive technology, devices, software, and services for NRC employees. NOTE: Some items and services are available only to DOD employees.

**Direct Threat:** Significant risk of substantial harm to a disabled individual or other and there are no reasonable accommodations that would lower that risk.

**Disability:** A physical or mental impairment that substantially limits one or more major life activities.

**Essential Functions:** Those duties that are so fundamental to a particular position that the individual holds or desires such that he/she cannot successfully fulfill the requirements of a position without being able to perform them. A function can be “essential” if, among other things, the position exists specifically to perform that function; there are a limited number of staff who can perform the function; or the function is so specialized that the individual is hired based on his/her ability to perform it.

**Federal Occupational Health (FOH):** Federal Occupational Health (FOH) is a non-appropriated agency within the Program Support Center (PSC) of the U.S. Department of Health and Human Services (HHS). FOH works in partnership with federal organizations nationally and internationally to design and deliver comprehensive occupational health solutions exclusively to federal employees.

**Interactive Process:** The process by which the RAC or designee, the supervisor, and the requestor work together for the purposes of providing effective reasonable accommodations throughout the NRC.

**Interactive Dialogue:** The interactive discussions between the RAC or designee, the supervisor and therequestor to identify and provide effective accommodations solutions for the purpose of resolving requests for reasonable accommodations.

**Job Accommodation Network (JAN):** JAN provides advice on reasonable accommodations solutions.

**Major Life Activity:** Functions such as caring for one's self, performing manual tasks, walking, seeing hearing, speaking, standing, eating, lifting, bending, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, breathing, learning, major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, circulatory, respiratory, endocrine, hemic, lymphatic, musculoskeletal, special sense organs and skin, genitourinary, and cardiovascular systems, and reproductive functions, and working. This list is not all inclusive but is representative of the types of activities that are considered major life activities.

**Qualified Individual with a Disability:** An individual with a permanent or temporary disability whosatisfies the requisite skill, experience, education, and other job related requirements of the position the individual holds or desires to hold and who can perform the essential functions of the position with or without reasonable accommodations.

**Reasonable Accommodations:** Modifications or adjustments to the job application process that enable a qualified applicant with a disability to be considered for a desired position.

Modifications or adjustments to the work environment or the manner or circumstances under which the position held or desired is customarily performed that enable a qualified individual with adisability to perform the essential functions for that position, or 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.

**Reasonable Accommodation Coordinator (RAC):** The NRC representative in the (OCHCO)who serves as the central point of contact for requests for reasonable accommodations and who provides assistance to employees and supervisors in considering such requests. The RAC or designee also tracks requests and produces reports regarding reasonable accommodations activities within the NRC. The RAC may also designate others to act as the RAC.

**Reassignment:** A form of reasonable accommodations that, absent undue hardship, may be provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of the job with or without reasonable accommodation. Reassignments are made only to vacant funded positions and only provide to employees who are qualified for the new position. If the employee is qualified for the position, he or she may be reassigned to the

job without competition. Reassignments, by definition, may be made only to a position of equal or lower grade.

**Requestor:** A employee, contractor, family member, NRC staff member, medical provider, or other employee representative expressing the need for a change in the working environment due to a medical condition for the purposes of obtaining a reasonable accommodation from the NRC.

**Substantial Limitation of a Major Life Activity:** The inability to perform a major life activity that the average person in the general population can perform, or significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared the average person in the general population.

**Undue Hardship:** A significant difficulty or expense incurred by the NRC. Determination of whether accommodations pose an undue hardship is always made on a case-by-case basis.

Factors considered include:

- the nature and net cost of the reasonable accommodation on the operations of the agency;
- the overall financial resources of the facility involved;
- the number of persons employed at such facilities and the effect on expenses and resources;
- the overall financial resources of the agency;
- the type of operation of the agency, including the composition, structure, and function of the; workforce and the geographic dispersion and relationship of the facility to the agency; and
- the impact of the accommodations upon the operation of the facility.

## **Appendix B: Medical Information Confidentiality**

*Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodations process must be kept confidential.*

All medical information, including information about functional limitations and reasonable accommodations needs obtained in connection with request for reasonable accommodations, as well as medical information unrelated to the reasonable accommodations process, must be kept in files separate from the individual's personnel file. Any NRC employee who obtains or receives such information is strictly bound by these confidentiality requirements.

Information “regarding the medical condition or history of any employee shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record...” 29 CFR 1630.14. The RAC or designee will maintain custody of all records obtained or created during the processing of requests for reasonable accommodations, including medical records, and will respond to all requests for disclosure of the records. Agency officials must not store medical records in their own separate files, but must forward them to the RAC for

storage. All records will be maintained in accordance with the Privacy Act and therequirements of Title 29 C.F.R. Part 1611.

This information may be disclosed *only* as follows:

Agency officials and managers who need to know (including the RAC or designee as the deciding official) who requested the medical information) may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodations but medical information should only be disclosed if strictly necessary;

First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment;

Government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act; and

The information may, in certain circumstances, be disclosed to workers' compensation offices or insurance carriers.

When medical information is disclosed, the individual disclosing the information must inform the recipients of the information as to the confidentiality requirements that attach to it and must advise them to follow all pertinent procedures according to regulation and policy.