

U.S. DEPARTMENT OF AGRICULTURE
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SUBJECT: Reasonable Accommodations and Personal Assistance Services for Employees and Applicants with Disabilities	DATE: October 27, 2020
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1. PURPOSE

- a. This Departmental Regulation (DR) establishes the United States Department of Agriculture's (USDA or the Department) policy for providing a reasonable accommodation (RA) to qualified employees and applicants with disabilities. This DR also establishes the policy for providing personal assistance services (PAS) to employees with targeted disabilities.
- b. This DR is implemented to help provide qualified people with disabilities an equal opportunity to obtain and successfully perform a job to the same extent as employees without disabilities, and enjoy the benefits and privileges of employment.

2. SPECIAL INSTRUCTIONS/CANCELLATIONS

- a. This DR supersedes DR 4300-008, *Reasonable Accommodations for Employees and Applicants with Disabilities*, dated March 9, 2000.
- b. All Mission Areas, agencies, and staff offices will adopt the policies set forth in this DR, including the use of Departmental forms.
- c. This directive is effective upon publication and remains in effect until it is superseded or expires.
- d. Mission Areas, agencies, and staff offices must align their RA and PAS policies with this DR within 90 calendar days of this DR's publication date.
- e. Mission Areas, agencies, and staff offices may not supplement this DR without prior review and approval from the Office of the Assistant Secretary for Civil Rights (OASCR).

3. BACKGROUND

- a. Under [Title I](#) of the *Americans with Disabilities Act (ADA)*, as amended, (Federal Executive branch agencies follow [Section 501](#) of the *Rehabilitation Act*, which corresponds with Title I of the ADA), an RA is a change or adjustment to the standard hiring process or work environment.
- b. The Equal Employment Opportunity Commission (EEOC)'s final rule, [82 Federal Register \(FR\) 654](#), *Affirmative Action for Individuals with Disabilities in Federal Employment*, amended Section 501 of the *Rehabilitation Act of 1973*, [29 Code of Federal Regulations \(CFR\) 1614.203](#), and requires Federal Agencies to take steps to gradually increase the number of employees in Federal service with disabilities and targeted disabilities, and provide PAS to Federal employees who require such services because of their targeted disabilities.

- c. Bargaining unit employees must follow their collective bargaining agreements' provisions for RA to the extent they vary with this DR.
- d. The ADA requires RAs as they relate to three aspects of employment:
 - (1) Ensuring equal opportunity in the application process;
 - (2) Enabling a qualified individual with a disability to perform the essential functions of a job; and
 - (3) Making it possible for a disabled person to enjoy equal benefits and privileges of employment.

4. SCOPE

This DR applies to:

- a. All USDA Mission Area, agencies, and staff offices responsible for implementing and managing RA and PAS through their servicing Human Resources or Civil Rights Office (CRO);
- b. Qualified employees and applicants with disabilities who request RAs; and
- c. Qualified employees with targeted disabilities who request PAS.

5. POLICY

- a. Decisions regarding requests for an RA and PAS will be made consistent with this DR, and Section 501 of the *Rehabilitation Act*, which adopted the standards of the *Americans with Disabilities Act Amendments Act of 2008* ([ADAAA](#)). The ADAAA construes the definition of "disability" broadly, and emphasizes the determination of whether a person has a disability generally should not require extensive analysis.
- b. An employee with a disability who needs an RA or PAS must inform their manager or supervisor in the employee's chain of command or the Mission Area, agency, or staff office Reasonable Accommodation Coordinator (RAC) of a need for an adjustment or change concerning some aspect of the application process, the job, or a benefit of employment for a reason related to their disability.
- c. Mission Areas, agencies, and staff offices are prohibited from discriminating against or taking adverse actions against job applicants or employees based on their need, or perceived need, for an RA or PAS.
- d. Requests for RA or PAS may be made orally or in writing at any time.

- e. Only qualified applicants and employees are eligible to receive an RA.
- f. USDA will provide an RA to employees and applicants with disabilities that are known to the Mission Area, agency, or staff office and request an RA, unless doing so would cause undue hardship to the organization.
- g. USDA will provide PAS to employees who have targeted disabilities and request PAS, unless doing so would cause undue hardship to the organization.
- h. Processing an RA or PAS request may not be refused or delayed, absent extenuating circumstances, and may not be denied based on an opinion or perception that the request should have been made at an earlier time.
- i. An applicant or candidate with a disability who needs an RA must inform the Human Resources Specialist or contact noted in the job announcement.
- j. Employees, supervisors, and managers must participate in the interactive process.
- k. If an approved RA or PAS will be needed intermittently, the employee does not have to re-submit the request for an RA or PAS.
- l. If an employee has an ongoing RA or PAS and requests a modification due to a change in their medical condition or treatment, the employee must promptly notify their supervisor, manager, or RAC. The modification request will be processed using the guidelines outlined in this DR.
- m. The Mission Area, agency, or staff office may not require a qualified person with a disability to accept an accommodation. However, if the person needs an RA to perform an essential job function or to eliminate a direct threat, and refuses to accept an effective RA, they may not be qualified to remain in their current job.

6. REASONABLE ACCOMMODATION POLICY

- a. Absent a direct threat or undue hardship, Mission Areas, agencies, and staff offices must provide an effective RA to a qualified employee or applicant who requests an RA and has:
 - (1) A physical or mental impairment that is known, or made known, to the Mission Area, agency, or staff office, and substantially limits one or more major life activities; or
 - (2) A record of a substantially limiting impairment and needs an accommodation related to the past disability if the disability continues to impact the employee's job performance.

- b. Mission Areas, agencies, or staff offices must not deny employment opportunities to a qualified employee or applicant with a disability based on the need to provide an RA.
 - (1) A person with a disability who is qualified to perform the essential functions of the position is not entitled to an accommodation of choice, but rather to an effective RA. A job function is considered essential for any of several reasons, including, but not limited to:
 - (a) The reason the job exists is to perform that function;
 - (b) There are a limited number of employees who can perform the job; and
 - (c) The job function is highly specialized, and the incumbent is hired for their expertise or ability to perform the job function.
 - (2) Evidence of whether a job function is essential includes, but is not limited to:
 - (a) The supervisor's judgment as to which functions are essential;
 - (b) Written job descriptions;
 - (c) The amount of time spent on the job performing the function;
 - (d) The consequences of not requiring the incumbent to perform the function;
 - (e) The terms of a collective bargaining agreement;
 - (f) The work experience of past incumbents in the job; or
 - (g) The current work experience of incumbents in similar jobs.
- c. An RA will not change conduct, performance, or production standards of the employee's job. This includes conduct standards that prohibit the use of illegal drugs or drinking alcohol while on official duty.
- d. An RA may be reevaluated under certain circumstances such as:
 - (1) Responsibilities or essential job functions change;
 - (2) Staffing levels change;
 - (3) The employee's medical condition improves or declines; or
 - (4) The RA is no longer effective.
- e. Reevaluation of an RA should not be based solely on a change of supervisor.

7. PERSONAL ASSISTANCE SERVICES POLICY

- a. Mission Areas, agencies, and staff offices are required to provide PAS to employees who need them because of targeted disabilities.
- b. PAS assists employees with performing activities of daily living such as:
 - (1) Removing and putting on clothing;
 - (2) Eating;
 - (3) Using the restroom;
 - (4) Getting in and out of a vehicle at the worksite; or
 - (5) Moving around the building.
- c. PAS does not assist employees with performing the following activities:
 - (1) Performing medical procedures or monitoring, such as:
 - (a) Administering shots; or
 - (b) Monitoring blood pressure;
 - (2) Helping a person with a targeted disability perform job-related tasks.
- d. PAS must be provided if:
 - (1) The person is an employee of the Mission Area, agency, or staff office;
 - (2) The employee has a targeted disability;
 - (3) The employee requires PAS because of a targeted disability;
 - (4) The employee requests PAS;
 - (5) The employee will be able to perform the essential functions of the job without posing a direct threat to safety once PAS and any necessary accommodations have been provided; and
 - (6) Providing PAS will not impose undue hardship on the organization.
- e. PAS must be approved during the following:
 - (1) Work hours in the normal duty location;

- (2) Telework hours in the approved telework location;
 - (3) Agency-sponsored events such as holiday parties; and
 - (4) Work-related travel.
- f. PAS providers can be independent contractors or Federal employees.
 - g. Mission Areas, agencies, and staff offices must ensure all contract provisions are sufficient to provide PAS in a timely manner to any agency employee who is entitled to them.
 - h. Contracts for PAS may permit Mission Areas, agencies, and staff offices to require PAS providers to perform tasks unrelated to PAS, but only to the extent that doing so does not result in a failure to provide required PAS to the employee in a timely manner.
 - i. Mission Areas, agencies, and staff offices may not request or require employees or contractors who do not provide PAS as part of their job to provide an employee with PAS.
 - j. PAS providers may provide PAS to more than one employee.
 - k. The employee's first preference will be considered in the selection of PAS providers to the extent permitted by law, absent undue hardship.
 - l. A Mission Area, agency, or staff office may reimburse an employee for the cost of PAS, may hire the PAS provider through a Federal contractor, or may use a Federal employee whose job is to provide PAS.
 - m. A Mission Area, agency, or staff office may hire a family member of the employee as a Federal employee to be a PAS provider.
 - n. A Mission Area, agency, or staff office may hire a family member of the employee as PAS provider through a Federal contractor.
 - o. An employee may request permission to bring their own PAS provider to work as an RA if they do not request the agency to assume the cost of providing the services. However, if the employee wants the agency to assume the cost of providing the services, the agency can select a different provider.
 - p. If an employee has access to classified information, the Mission Area, agency, or staff office must obtain a PAS provider who has or who is able to get the appropriate security clearance.
 - (a) The PAS provider is responsible for obtaining the appropriate security clearance.

- (b) Finding a PAS provider who has or is able to get the appropriate security clearance may constitute an undue hardship.

8. REQUESTING AND PROVIDING RA AND PAS

a. Requesting a Reasonable Accommodation or Personal Assistance Services.

- (1) A request is any communication where an employee or applicant expresses a need for assistance or change, when applying or competing for a job, performing a job, or gaining equal access to a benefit of employment, due to their medical condition.
- (2) Requests may be made orally or in writing. If in writing, the Agriculture Department (AD) 1163, *Request for or Confirmation of Reasonable Accommodation/Personal Assistance Services* may be used.
- (3) Requests can be made at any time during the application process or while employed.
- (4) Requests may be made to the employee's supervisor, manager, Mission Area, agency, or staff office RAC, HR servicing office, or the HR Specialist or contact identified in the vacancy announcement.
- (5) A request does not have to include any special words, such as "RA," "disability," "PAS," or "Rehabilitation Act." A supervisor, manager, HR Specialist, or RAC should ask the person whether they are requesting an RA or PAS if the nature of the initial communication is unclear.
- (6) The employee or applicant ordinarily makes requests, but a request may be made by a third party (e.g., a family member, medical doctor, or other representative) on behalf of the employee or applicant.

b. RA and PAS Processing Timeframes and Deadlines.

- (1) Supervisors, managers, HR Specialists, and RACs must confirm receipt of a request in writing to an employee, applicant, or third party, within 5 business days of receiving the request. If not initially submitted, the Supervisor, manager, HR Specialist, or RAC shall also request the Form AD-1163 be completed by the requesting individual. Failure to complete the form shall not delay the processing of an individual's oral request.
- (2) HR Specialists and supervisors must process RA requests of qualified applicants as soon as possible.
- (3) If a person needs an RA during the application or hiring process, they should inform the HR Specialist or contact provided in the job announcement as soon as possible.

- (4) The RAC will request any relevant and necessary medical documentation from the requestor or appropriate source within 10 business days of receiving the RA or PAS request.
- (5) The supervisor must approve or deny requests for RA and PAS within 30 business days of the initial request, absent extenuating circumstances, such as a delay in returning requested medical information or an unscheduled office closure.
- (6) When a disability and the need for accommodation is known or obvious, a supervisor may approve an RA or PAS sooner than the required timeframe, or if possible, provide the RA immediately.
- (7) If there is a delay in processing a request, the supervisor or HR Specialist must notify the requestor orally or in writing, via e-mail, or memorandum of the reason for the delay, and any extenuating circumstances causing the delay.
- (8) Any oral communication from the supervisor, manager, HR Specialist, RAC, or other deciding official to the employee or applicant regarding the status of the RA or PAS, must be followed-up in writing. A supervisor's, manager's, or HR Specialist's final determination of an RA request must be made in consultation or coordination with the RAC and communicated to the employee in writing, utilizing the appropriate USDA forms.
- (9) When there is a delay in either processing a request or providing an RA or PAS within the 30-day timeframe, the supervisor, manager, HR Specialist, or other deciding official must consider whether an interim RA will allow the person to perform some or all of their essential job functions.
- (10) Interim RAs will continue until the RA request is approved or denied and does not create an entitlement to a permanent RA.

c. Determining an Effective RA or PAS.

- (1) Each RA and PAS is unique to the person and their medical condition and must be addressed on a case-by-case basis.
- (2) Supervisors and managers are required to participate in the interactive process and should communicate with the requestor early and often throughout the process.
- (3) Devising an effective RA or PAS may require an interactive process between the employee, the supervisor, and other relevant parties outlined in Section 14 of this DR.
- (4) Considerations for determining whether to approve an RA include, but are not limited to:

- (a) The type of limitations resulting from the person's disability;
 - (b) Whether the requested accommodation would allow the employee to perform essential job functions and requirements;
 - (c) The degree to which the requested accommodation would impact the employee's office or other facility, including its functions, workload, and customers' experience;
 - (d) The degree to which the requested accommodation would impact the capacity of one or more other employees in the office or other facility to carry out their functions; and
 - (e) Any upfront and ongoing expenses.
- (5) Consideration will be given to the employee's preferred accommodation, but the agency retains the ultimate discretion to choose among effective accommodations and may choose the less expensive and less disruptive accommodation. An employee is not entitled to an accommodation of their choosing.
 - (6) If an employee chooses to provide their own accommodation (e.g., a motorized scooter), the agency is not relieved of the duty to provide an effective accommodation should the employee for any reason be unable or unwilling to continue to provide the accommodation.
 - (7) Existing RAs do not guarantee approval for other employees' RA requests, irrespective of the perceived similarities of the circumstances.

9. DISABILITY DETERMINATION

- a. For the purposes of providing an RA or PAS, a person is considered to have a disability when they have a physical or mental impairment that substantially limits one or more major life activities, and when they have a record of such an impairment.
- b. A person is considered to have a targeted disability if their disability is designated on the Office of Personnel Management (OPM) [Standard Form \(SF\) 256](#), or one of the first 12 categories of disability listed in Part A of question 5 of the EEOC's *Demographic Information on Applicants* Form (29 CFR § 1614.203).
- c. A physical or mental impairment is defined as:
 - (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems; or

- (2) Any mental, emotional, or psychological disorder.
- d. A person will be considered to have a record of a disability if the person has a history of an impairment that substantially limited one or more major life activities when compared to most people in the general population.
 - e. A person who has a record of a substantial limitation in a major life activity may be entitled to RA related to the past disability, absent undue hardship. For example, an employee with an impairment that previously limited, but no longer substantially limits, a major life activity may need leave or a schedule change to permit them to attend follow-up or monitoring appointments with a health care provider.
 - f. The term “substantially limits” should be construed broadly in favor of expansive coverage. An impairment need not prevent, or significantly or severely restrict, a person from performing a major life activity to be considered substantially limiting.
 - g. The threshold issue of whether an impairment substantially limits a major life activity should not demand extensive analysis. The determination is normally made on a case-by-case basis that compares a person’s performance of a major life activity to the performance of the same major life activity by most people in the general population (not a comparison to those similarly situated).
 - h. In determining whether a person has a disability for the purpose of an RA, the focus is on how a major life activity is substantially limited, and not on what outcomes a person can achieve.
 - i. Major life activities include, but are not limited to:
 - (1) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and commuting to and from work; and
 - (2) The operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.
 - j. The determination of whether an impairment substantially limits a major life activity must be made without regard to the improvements caused by mitigating measures, such as medication, prosthetics, or hearing aids. The only exception is ordinary eyeglasses or contact lenses.

- k. Current use of illegal drugs is excluded as a disability for the purposes of an RA. Agencies must comply with the USDA [*Plan for a Drug Free Workplace*](#) and [*DR 4430-792-2, Drug-Free Workplace Program*](#).
- l. Pregnancy is not considered a disability or impairment by itself, but some pregnancy-related impairments may qualify as a disability for which the person may be eligible for an RA.
 - (1) The person may also be eligible for an RA due to limitations resulting from the interaction of the pregnancy with an underlying impairment. Both categories may require the agency to provide an accommodation or adjust a current accommodation using the processes outlined in this DR.
 - (2) *The Pregnancy Discrimination Act of 1978*, [*42 United States Code \(U.S.C.\) Section 2000e\(k\)*](#), does not require an RA, but does require that pregnant workers be treated the same as other workers who are similar in their ability or inability to work. This may mean providing measures that are similar to RAs, such as light duty, leave, or any job changes provided to another employee similar in ability or inability to work. These requests will follow RA procedures.

10. TYPES OF REASONABLE ACCOMMODATION

- a. The three types of RAs are:
 - (1) Change to the Application Process: A change to the job application process that allows qualified applicants with disabilities to apply and be considered for jobs;
 - (2) Change to the Work Environment: A change to the work environment, or the way a job is customarily performed, that helps qualified employees with disabilities to perform the essential functions of a job; and
 - (3) Change to Allow Equal Access: A change or adjustment that helps an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.
- b. Benefits and privileges of employment include, but are not limited to:
 - (1) Access to restrooms, credit unions, cafeterias, and services, (e.g., employee assistance programs);
 - (2) Recreational activities;
 - (3) Work sponsored social activities on- and off-site; and
 - (4) Training opportunities.

c. The following are examples of common RAs:

(1) Equipment.

A larger or specialized computer monitor for an employee with a visual impairment.

(2) Accessibility.

- (a) Making existing facilities physically accessible;
- (b) Providing screen magnification software; voice activation software; or readers to help people who are vision impaired or have learning disabilities that inhibit their ability to read printed text; open/closed captioning, providing a simpler explanation of workplace rules for employees with cognitive disabilities; or
- (c) Providing sign language interpreters to assist the hearing impaired communicate with coworkers, or participate in work related activities (e.g., training).

(3) Workplace Changes.

- (a) Lowering the paper towel dispenser in a workplace restroom; or
- (b) Adjusting the lighting at a person's workstation.

(4) Job Restructuring.

- (a) Job restructuring may involve shifting or redistributing non-essential job functions that an employee is unable to perform. Job restructuring may also involve changing when or how a task is performed.
- (b) An employee who has non-essential job functions shifted to another employee will assume other non-essential functions, in accordance with classification guidelines.
- (c) An RA does not include removing, shifting, or reassigning essential job functions.

(5) Telework as an RA.

- (a) Telework (RA telework) may be an effective RA and should be considered as an RA for qualified employees with disabilities if the accommodation helps the employee and would not interfere with the essential functions of the employee's position.

- (b) The employee must demonstrate how limitations from their disability prevent them performing their essential job functions at their duty station, and how the essential job functions can be performed from their home or another offsite location.
 - (c) A determination to allow RA telework will be made on a case-by-case basis, taking into consideration the nature of the disability, the portability of essential job functions, and whether the job functions can be performed from another location.
 - (d) RA telework is subject to different requirements than general telework requirements.
 - (e) RA telework may not be approved if the essential job functions are not portable, such as when sensitive materials cannot be accessed outside the primary work location, direct customer or coworker interaction is necessary to fulfill the job requirements, or the work requires immediate access to documents in the workplace that cannot be made available electronically.
 - (f) RA telework may not be effective for employees whose duties involve customer-facing work during specific hours or whose duties are dependent on teamwork.
 - (g) When considering RA telework, an employee may consult their immediate supervisor or manager, the Mission Area, agency, or staff office HR Specialist, or the RAC for guidance, as needed.
- (6) Modified work schedules.
- (a) Adjusting arrival and departure times, changing shift assignments, providing periodic breaks, or allowing a part-time schedule or flextime schedule may be an effective RA.
 - (b) This accommodation may be an effective RA for employees who work independently and whose duties can be performed separately from others on the same team.
- (7) Leave.
- (a) Employees with a disability may be permitted to use accrued leave. In appropriate circumstances, an employee may be approved for advanced leave or leave without pay as an accommodation. The Mission Area, agency, or staff office must consider providing unpaid leave to an employee with a disability as an RA if the employee requires it, so long as it does not cause an undue hardship for the agency.

- (b) In some situations, a request for leave as an RA may present an undue hardship. In cases of highly specialized jobs or when an employee cannot provide a return date, it may be difficult or impossible to find a temporary replacement or to hold the job open indefinitely. In these cases, the supervisor will consult with their respective HR Specialist, RAC, or the Office of Human Resources Management (OHRM).
- (c) Quantity and timeliness measures in performance standards must be prorated or adjusted for employees who are on extended approved leave to ensure the employee is not penalized for being ill or having a disability.

(8) Modifying supervisory methods.

While a Mission Area, agency, or staff office is not required to reassign an employee to a new supervisor as an RA, a supervisor may, in certain circumstances, be required to change their method of communication or process. Communicating in writing rather than orally, providing an agenda for meetings, or allowing teleconferencing rather than face-to face meetings may be effective accommodations.

(9) Job coach.

Coaching may be an appropriate temporary measure to help an employee learn essential and non-essential job functions.

(10) Travel.

Travel-related RAs may include a request for an airfare class upgrade, rental or transport of a wheelchair, a larger hotel room, or special conveyances. All travel requests must comply with the *Federal Travel Regulation*, [Part 301-3](#), which allows for RAs, such as paying for additional travel expenses incurred.

(11) Emotional Support and Service Animals.

An employee or applicant may request the use of a service, comfort, or emotional support animal as an RA. The requestor is responsible for ensuring the animal is properly trained and cared for, behaves, and follows applicable guidelines determined by the Mission Area, agency, or staff office. If the animal is disruptive, poses a direct threat (e.g., a significant risk to health or safety), or is not properly cared for by the handler, the effect on others may demonstrate an undue hardship on the Department.

(12) Reassignment.

- (a) Reassignment is the RA of last resort. Mission Areas, agencies and staff offices are required to search for and offer any vacant and funded position the employee is qualified.
- (b) Reassignment will be considered only after it has been determined:
 - 1 No RA will help the employee to perform the essential functions of their current position; or
 - 2 All other RAs would impose either a direct threat or undue hardship.
- (c) Reassignment must be to a vacant and funded position the employee is qualified for, with or without an accommodation:
 - 1 The vacant position will generally be commensurate to the employee's current position at the same grade and pay;
 - 2 The vacant position must not be at a higher grade or pay than the employee's original position;
 - 3 The vacant job must not have non-competitive promotion potential beyond that which existed in the employee's original position;
 - 4 The position must be vacant or anticipated to become vacant within a reasonable amount of time determined by totality of the circumstances; and
 - 5 If there is no commensurate vacant position available within a reasonable amount of time, the employee may be accommodated through a reassignment to a lower-graded job, following merit promotion and pay regulations for such reassignment.
- (d) When considering reassignment as an RA, supervisors, managers, and RACs must coordinate with the Mission Area, agency, or staff office HR servicing office in searching for available vacancies.
- (e) If an employee is successfully reassigned, the Mission Area, agency, or staff office is not required to fund relocation expenses, but may do so at its discretion, if funding permits.
- (f) Mission Areas, agencies, and staff offices do not have to create a position and are not required to remove another employee to provide an RA.

- (g) Reassignment searches should begin within the Mission Area, agency, or staff office where the employee is currently employed and extend Departmentwide, if necessary.
- (h) An employee with a disability may not be reassigned to a position where they are unable to perform the essential job functions, with or without an RA.

11. LIMITATIONS TO PROVIDING REASONABLE ACCOMMODATION

Mission Areas, agencies, and staff offices are not required to:

- a. Provide an accommodation that would cause an undue hardship;
- b. Provide personal use items as RAs, but may be required to provide a personal use item that is intended to be used only on the job, such as a motorized scooter;
- c. Provide an employee with equipment, an adjustment, or change that would assist the employee both on and off the job, such as eyeglasses or a permanent motorized scooter;
- d. Remove or change a job's essential functions;
- e. Lower production or performance standards;
- f. Excuse violations of standards of conduct; or
- g. Provide an accommodation that would cause a direct threat.
 - (1) The determination that a person poses a direct threat must be based on a personalized review of the person's present ability to safely perform essential job functions. This review must be based on a reasonable medical judgment that relies on the most current medical knowledge or the best objective evidence available.
 - (2) Supervisors must consult with their servicing Employee Relations Specialist and the RAC when determining whether a person would pose a direct threat to self or others.
 - (3) Factors considered in determining whether the employee would pose a direct threat to self or others include:
 - (a) The duration of the risk;
 - (b) The nature and severity of the potential harm;

- (c) The likelihood that the potential harm will occur; and
- (d) The imminence of the potential harm.

12. RA AND DISABILITY RETIREMENT

- a. An employee may qualify for Federal disability retirement if the Mission Area, agency, or staff office certifies it is unable to accommodate the employee's disability in their present job and has considered the employee for other vacant jobs within the Department at the same grade or pay level, within the same commuting area, for which the employee is qualified for reassignment.
- b. OPM, not the Department, makes decisions regarding disability retirement applications.

13. MEDICAL INFORMATION AND CONFIDENTIALITY

- a. Requesting Medical Information.
 - (1) Only the agency RAC may determine whether medical information is needed to assess the RA or PAS request, and if so, may request the information from the employee and, with the employee's permission, the appropriate health professional.
 - (2) Before requesting medical documentation from an applicant or employee, the type of accommodation (e.g., schedule, leave, work from home, equipment, etc.) and how it will help a person perform the essential functions of the job should be considered. Medical information regarding the need for an RA or PAS may not be necessary if the information provided through the interactive process is sufficient to show an RA or PAS is needed.
 - (3) Medical information is not required when both the disability and need for accommodation or personal assistance are obvious, if the employee previously provided sufficient medical information with their RA request showing they had a disability and a need the requested RA or PAS, or if enough information is provided through the interactive process.
 - (4) If a person's disability and need for an RA or PAS are not obvious or already known, then the Mission Area, agency, or staff office RAC is authorized to ask for and receive medical information showing the person has a qualifying disability requiring an RA or PAS, and information about the nature or extent of the employee's medical limitations, if needed.
 - (5) It is the responsibility of the requester to provide appropriate medical information requested by the Mission Area, agency, or staff office RAC where the disability and

need for an RA or PAS are not obvious, already known, or where there is a need to change a current RA or PAS.

- (6) The Mission Area, agency, or staff office RAC may request relevant, supplemental medical information if the information submitted by the requester in their initial request did not provide adequate information to assess the RA or PAS request, or if the medical information does not support a change of the accommodation.
- (7) Medical information must be sufficient to explain:
 - (a) The nature and duration of the person's disability;
 - (b) The limitations, scope of limitations, and restrictions related to the disability;
 - (c) The need for RA or PAS; and
 - (d) How the requested RA will assist the person with applying for a job, performing the essential functions of a job, or enjoying the benefits and privileges of employment.
- (8) The Mission Area, agency, or staff office may have the medical information reviewed by a medical expert of their choosing at the Mission Area, agency, or staff office's expense.
- (9) Once a person has identified their disability with the Mission Area, agency, or staff office, new or updated medical information will only be requested in limited circumstances where the person:
 - (a) Requests a new RA or PAS;
 - (b) Is observed by the supervisor or manager having difficulties in performing essential job functions;
 - (c) Has a change in their disabling condition or functional limitations;
 - (d) Has a change to their essential job duties that are not addressed by the medical information previously provided; or
 - (e) Can no longer perform their essential job duties or enjoy the privileges of employment.
- (10) If an employee's condition is expected to improve, an RA agreement may indicate the RA will be reevaluated.

b. Confidentiality Requirements.

- (1) Requests for RA and PAS are considered medical information and must remain confidential.
- (2) RACs may only request medical documentation directly related to the accommodation being requested, and are not entitled to the person's complete medical record.
- (3) A person's RA or disability should not be described in their telework agreement, time and attendance record, or tour of duty work schedule.
- (4) Any additional medical information obtained in connection with RA and PAS requests must also remain confidential and be maintained by the Mission Area, agency, or staff office RAC.
- (5) RA and PAS files must remain separate from an employee's personnel file. This includes any RA or PAS requests, denials, medical information, and relevant communications.
- (6) Any USDA employee who obtains or receives medical information related to an RA or PAS request is strictly bound by the confidentiality requirements in this DR.
- (7) The RAC will only disclose information to the person's supervisor or other agency official(s) as necessary to process and implement an RA request. Under these circumstances, the RAC will inform the recipient of the requirement to maintain the confidentiality of the medical information.
- (8) Any information disclosed must be no more than is necessary to process and implement the request.
- (9) In addition to disclosures of information needed to process a request for an RA or PAS, other disclosures of medical information are permitted as follows:
 - (a) To provide an effective RA, supervisors and managers are entitled to relevant information that is necessary to understand the person's restrictions and limitations related to the essential job functions;
 - (b) First-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or assistance in evacuation;
 - (c) Government officials may be given information necessary to investigate USDA's compliance with the Rehabilitation Act;
 - (d) When a Mission Area or agency medical officer consults with the person requesting an RA regarding the interpretation of medical documents;

- (e) In certain circumstances related to litigation, the worker's compensation or insurance carriers, in accordance with EEOC regulation; and
- (f) When otherwise authorized by law.

14. INTERACTIVE PROCESS

- a. The interactive process is a dialogue between the person with a disability and their direct supervisor or manager to determine an effective accommodation. The person with a disability should be consulted to determine the precise job-related limitations imposed by their disability, and how those limitations can be overcome with an RA.
- b. The interactive process may also require key people to work together with the person with a disability to consider options available to help them perform the essential job functions, absent undue hardship to the organization.
- c. Actively engaging in the interactive process will promote the timely and efficient processing of RA and PAS requests. In many instances, the person with the disability will be able to provide information regarding the type of accommodation needed.
- d. If a person cannot participate in the interactive process, they may designate someone else to participate in the interactive process.
- e. Below are a few examples of key people or entities that may be consulted to participate in the interactive process.
 - (1) Supervisors and managers;
 - (2) Hiring officials;
 - (3) Mission Area, agency, or staff office RAC;
 - (4) Medical care or mental health care professional of the individual;
 - (5) USDA Technology and Accessible Resources Give Employment Today (TARGET) Center;
 - (6) Mission Area, agency, or staff office HR Specialist, Employee, or Labor Relations staff;
 - (7) Rehabilitation counselor;
 - (8) A family member of the person;

- (9) Department of Labor's Job Accommodation Network;
- (10) Union Representative; and
- (11) The personal representative of the person requesting the RA.

15. UNDUE HARDSHIP

- a. The Department is not required to provide an RA if it would cause an undue hardship to an organization.
- b. Factors to consider in determining if an RA would impose an undue hardship include, but are not limited to:
 - (1) The nature or net cost of the accommodation needed;
 - (2) The overall financial resources of the Department;
 - (3) The overall size, number, location, and number of employees of the Mission Area, agency, or staff office; and
 - (4) The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.
- c. A Mission Area, agency, or staff office cannot claim an undue hardship based on:
 - (1) Employee or customer fears or biases about a person's disability;
 - (2) Negative impact on the morale of other employees; or
 - (3) Changes needed to property owned by another entity other than the Department.
- d. Generalized conclusions do not support a claim of undue hardship.
- e. Determinations of undue hardship must be based on a personalized review of current circumstances that show a specific accommodation request would cause significant difficulty and expense to the Department.
- f. If there is another accommodation that will avoid undue hardship to the Department, then the Mission Area, agency, or staff office must provide the other RA.

16. DENIED REQUESTS

- a. A supervisor or hiring official must communicate a denial of an RA or PAS request in writing via e-mail, memorandum, or on Form AD-1165, *Reasonable Accommodation and Personal Assistance Services Employee Denial Form*, and must specify:
 - (1) The reason for the denial;
 - (2) The right to file an administrative grievance or, if permitted under the applicable collective bargaining agreement, negotiated grievance with the agency;
 - (3) The right to file an Equal Employment Opportunity (EEO) complaint with OASCR, or the Mission Area or agency EEO office; and
 - (4) Instructions on how to file an EEO complaint with OASCR, or the Mission Area or agency EEO office.
- b. An accommodation denial does not prevent the requestor from making another RA request at a later time if circumstances change and they believe an accommodation is needed (e.g., a disability worsens, or the requestor is assigned new duties that require an additional or different RA).
- c. If a person is denied an RA or PAS, they may request reconsideration.
- d. Upon receipt of a written denial, a requester has 10 business days to request reconsideration from their second line supervisor. A request for reconsideration does not extend the time limits for initiating administrative, statutory, or collective bargaining claims.
- e. After receiving a request for reconsideration, the second line supervisor will render a decision and notify the requester in writing within 14 business days of receiving the request for consideration.

17. COMPLAINTS AND DISPUTE RESOLUTION

- a. Employees and applicants may use informal or alternative dispute resolution processes to obtain prompt reconsideration of denied requests.
- b. Employees and applicants may file complaints related to an RA.
 - (1) EEO Complaint Process. Employees and applicants must initiate contact with an EEO Counselor within 45 calendar days of the date of denial (as defined by the date the written denial is issued via e-mail, memorandum, or Form AD-1165 with an additional 5 calendar days when the written denial must be mailed to the employee or applicant).

- (2) Employee Grievance Process. Employees may file an administrative grievance in accordance with the provisions of the [DR 4070-771-001](#), *Administrative Grievance System*. Employees should contact their Mission Area, agency, or staff office Employee Relations Office for further information.
- (3) Negotiated Grievance Procedure. Employees may contact their union representative to file a negotiated grievance, in accordance with collective bargaining agreement provisions.
- (4) Appeal Process. Employees may initiate an appeal to the Merit Systems Protection Board within 30 calendar days of an appealable adverse action as defined in [5 CFR § 1201.3](#).

18. MAINTENANCE OF RECORDS AND FORMS

Mission Areas, agencies, and staff offices will maintain RA and PAS records in accordance with the Department's record retention policy, including aggregated, anonymized records that track the number of RAs and PASs currently in effect for the relevant agency, sub-agency, or office.

19. ROLES AND RESPONSIBILITIES

- a. The Assistant Secretary for Civil Rights will:
 - (1) Monitor and evaluate the implementation of the RA and PAS process;
 - (2) Provide policy compliance oversight, technical assistance, and direction on issues that arise;
 - (3) Annually prepare and submit an affirmative action plan to the EEOC that includes a copy of USDA's RA and PAS DR and information on the Department's efforts to implement RA and PAS; and
 - (4) Review and revise this DR as needed.
- b. The Director, OHRM, serving as the USDA Chief Human Capital Officer (CHCO), will:
 - (1) Establish and implement USDA's RA and PAS procedures in compliance with applicable law, regulations, OPM Guidance, this DR, and [DM 4300-002](#), *Reasonable Accommodation Procedures*;
 - (2) Oversee the establishment and implementation of RA and PAS procedures for Mission Area, agency and staff offices;

- (3) Ensure policies and procedures for requesting RA and PAS and applicable forms are published to the Department's public-facing and internal websites;
 - (4) Provide technical assistance to Mission Area, agency, and staff office RACs;
 - (5) Ensure Mission Areas, agencies, and staff offices actively support and adhere to RA and PAS procedures; and
 - (6) Review, direct, and approve Mission Area, agency, and staff office internal RA and PAS procedures.
- c. Mission Areas and Agencies will:
- (1) Designate one or more RACs (depending on workforce size) and ensure they are trained and qualified to manage, process, and provide technical assistance for RA and PAS requests to their respective organizations;
 - (2) Establish and maintain a secure, accessible, centralized RA and PAS tracking system to monitor compliance with the process and timeline requirements outlined in this DR;
 - (3) Ensure there are enough RACs to ensure timely and effective processing of RA and PAS requests.
 - (4) Implement RA and PAS procedures;
 - (5) Provide resources for program implementation to ensure efficient and timely processing of RA and PAS requests;
 - (6) Develop an affirmative action plan for the recruitment, hiring, advancement, and retention of persons with disabilities;
 - (7) Maintain sufficient funding to support the ongoing costs associated with providing RAs to applicants and employees with disabilities;
 - (8) Maintain sufficient funding to support the ongoing costs associated with providing PAS to employees who have targeted disabilities; and
 - (9) Ensure procedures for requesting RA and PAS and any associated forms are published on their public-facing and internal websites and made available to all applicants and employees.
- d. USDA CHCO Council Members will:
- (1) Ensure their RA and PAS policies and procedures comply with this DR;

- (2) Ensure sufficient funding is maintained within their own Mission Area, agency, or staff office to support the ongoing costs associated with providing RA and PAS;
- (3) Ensure all vacancy announcements include instructions on how to request an RA and include contact details of the HR Specialist noted in the job announcement;
- (4) Ensure tentative and final job offer letters include RA and PAS procedures and contact details for the Mission Area, agency, or staff office RAC;
- (5) Provide reassignments as an RA to a vacant and funded position at the same or lower grade level without competition, consistent with this DR;
- (6) Provide staff support to identify current and anticipated vacancies to reassign a qualified employee seeking reassignment as an RA after attempts to accommodate the employee in their current job have been exhausted;
- (7) Conduct an annual evaluation of Mission Areas, agencies, and staff offices to evaluate compliance with established policies and procedures, and determine the need for improvement, training, or guidance;
- (8) Collaborate with OASCR and OHRM to timely provide the information necessary for submission of the annual EEO Management Directive (MD) 715 reports to the EEOC with a copy to OHRM; and
- (9) Provide required reports and documentation of program activities to support USDA and OPM accountability program reviews and audits.

e. Reasonable Accommodation Coordinators will:

- (1) Complete RA and PAS training within 30 business days after their initial appointment, and additional training as needed;
- (2) Complete RA and PAS annual training;
- (3) Adhere to this DR to ensure qualified employees and applicants with disabilities are provided RAs in an effective and efficient manner that meets the timelines set forth within this DR;
- (4) Adhere to this DR to ensure qualified employees who have targeted disabilities are provided PAS in an effective and efficient manner that meets the timelines set forth within this DR;
- (5) Participate in the interactive process with job applicants or candidates to assist in providing an RA during the application or hiring process;

- (6) Maintain RA and PAS request records in accordance with applicable Federal regulations and this DR;
 - (7) Ensure medical records are kept confidential and maintained in secured files
 - (8) Maintain current, up-to-date inventories of granted and denied RAs or PASs request in the RA Coordinator's respective agency; and
 - (9) Submit quarterly reports to OHRM for monitoring and measuring USDA's compliance with the Rehabilitation Act.
- f. Human Resources Specialists will:
- (1) Complete RA and PAS annual training, and additional training as needed;
 - (2) Work with their respective RACs to evaluate requests for RA and PAS within the timeframe described in Section 8 of this DR;
 - (3) Actively participate in the interactive process to assist with finding an effective RA for employees and qualified applicants, when needed;
 - (4) Actively assist in the reassignment process, when necessary;
 - (5) Provide an effective RA for employees and qualified applicants, when needed; and
 - (6) Provide an effective PAS for employees with targeted disabilities, when necessary.
- g. Mission Area, Agency, and Staff Office Managers and Supervisors will:
- (1) Complete RA and PAS annual training, and additional training as needed;
 - (2) Work with their respective RAC to evaluate requests for RA and PAS within the timeframe described in Section 8 of this DR;
 - (3) Actively participate in the interactive process to assist with providing an effective RA for employees and qualified applicants, when needed;
 - (4) Provide an effective RA for employees and qualified applicants, when needed;
 - (5) Provide an effective PAS for employees with targeted disabilities;
 - (6) Evaluate the RA at the end of any timeframes communicated by the employee's healthcare provider;
 - (7) Evaluate the RA at the end of its established timeframe;

- (8) Evaluate the RA if there is a change in staffing, job position, responsibilities of the job, or if the RA is no longer effective;
 - (9) Contact the Labor Relations Staff for guidance and assistance if an RA is requested by a bargaining unit employee; and
 - (10) Maintain RA and PAS records in a secure area, separate from the employee's personnel file, in accordance with applicable Federal regulations.
- h. Employees and Applicants with Disabilities who need RA will:
- (1) Initiate RA requests, as needed, in the manner outlined in Section 8 of this DR;
 - (2) Provide timely and relevant medical information that specifically connects the disability to the requested RA, if requested; and
 - (3) Actively participate in the interactive process.
- i. Employees with Targeted Disabilities who need PAS will:
- (1) Initiate a request for PAS, in the manner outlined in Section 8 of this DR;
 - (2) Provide timely, relevant medical information specifically relating the targeted disability to the requested PAS, if requested; and
 - (3) Actively participate in the interactive process.

20. COMPLIANCE

- a. OASCR will audit Mission Areas, agencies and staff offices to ensure compliance with this DR.
- b. USDA CHCO Council Members are responsible for ensuring their RA and PAS programs comply with the policies specified in this DR.
- c. OHRM, on an as needed basis, will establish mandatory compliance reporting.

21. INQUIRIES

Questions and comments pertaining to this DR should be directed to the Office of the Assistant Secretary for Civil Rights at (202) 720-3808.

-END-

APPENDIX A

ACRONYMS AND ABBREVIATIONS

AD	Agriculture Department (for Departmental forms use only)
ADA	Americans with Disabilities Act
ADAAA	Americans with Disabilities Act Amendments Act
CFR	Code of Federal Regulations
CHCO	Chief Human Capital Officer
DM	Departmental Manual
DR	Departmental Regulation
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
HR	Human Resources
OASCR	Office of the Assistant Secretary for Civil Rights
OCIO	Office of the Chief Information Officer
OHRM	Office of Human Resources Management
OPF	Official Personnel File
OPM	Office of Personnel Management
PAS	Personal Assistance Services
RA	Reasonable Accommodation
RAC	Reasonable Accommodation Coordinator
SF	Standard Form
U.S.C.	United States Code
USDA	United States Department of Agriculture
TARGET	Technology and Accessible Resources Give Employment Today

APPENDIX B

DEFINITIONS

ADA. For purpose of this DR, ADA refers to Title I of the Americans with Disabilities Act of 1990, as amended, as it relates to employment standards. Title I of the ADA requires an employer to provide RA to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause an undue hardship. These standards are set forth in the EEOC's ADA regulations at 29 CFR part 1630. Section 501 of the Rehabilitation Act of 1973, as amended, comports with Title I of the ADA.

ADAAA. Americans with Disabilities Act Amendment Act of 2008.

Agency. Organizational units of the Department, other than staff offices as defined below, whose heads report to officials within the Office of the Secretary, Deputy Secretary, Under Secretaries, Assistant Secretaries, and Assistant to the Secretary.

Bargaining Unit Employee. An employee included in an exclusive bargaining unit as determined by the Federal Labor Relations Authority for which a labor organization has been granted exclusive recognition. ([DG 0100-002](#), *USDA Departmental Directives Definitions Glossary*, September 26, 2018)

CHCO Council Member. The most senior Human Resources Officer in a Mission Area.

Deciding Official. A USDA supervisor, manager, RAC, HR Specialist, Employee Relations Specialist, or other USDA employee who has the authority to make a decision regarding an employee or applicant's RA or PAS.

Direct Threat. A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by RA. ([29 CFR § 1630.2\(r\)](#))

Disability. With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. ([29 CFR § 1630.2\(g\)](#))

Drug. A controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act ([29 CFR § 1630.3](#) and [21 U.S.C. § 812](#))

Effective Accommodation. An accommodation that removes a workplace barrier and allows an applicant to apply for a job, or allows an employee to perform the essential functions of the job.

Essential Functions. The fundamental duties of the job the individual with a disability holds or desires, and that the individual who holds the job must be able to perform unaided or with the assistance of RA. ([29 CFR § 1630.2\(n\)\(1\)](#) and [Appendix to 29 CFR Part 1630](#))

Extenuating Circumstances. Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or limited situations in which unforeseen or

unavoidable events prevent prompt processing and delivery of an accommodation. (e.g., identified software such as a screen reader is not compatible with existing equipment).

Illegal Use of Drugs. The use of drugs the possession or distribution of which is unlawful under the Controlled Substances Act, as periodically updated by the Food and Drug Administration. This term does not include the use of a drug taken under the supervision of a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law. ([29 CFR § 1630.3](#))

Interim Accommodation. Any temporary or short-term measure put in place until an RA request is approved or denied, or until a granted accommodation is available. An interim accommodation can be put in place before there is a determination that the individual has a disability; before or after the interactive process; before there has been a decision re: an RA; or when more time is needed to put a granted RA in place.

Job Coach. Someone who assists in training or guiding the performance of a person with a disability.

Major Life Activities. Major life activities include activities such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major life activities also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive function. ([29 CFR 1630.2\(i\)](#))

Manager. A person in a management job who typically supervises one or more supervisors.

Mission Area. A group of agencies with related functions that report to the same Under or Assistant Secretary. Research, Education, and Economics (REE) is an example of a mission area.

Mitigating Measures. Include, but are not limited to: medication, medical supplies, equipment, or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, and oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or “auxiliary aids or services” (as defined by [42 U.S.C. 12103\(1\)](#)); Learned behavioral or adaptive neurological changes; or Psychotherapy, behavioral therapy, or physical therapy. ([29 CFR 1630.2 \(j\)\(5\)](#))

Official Personnel File. The file containing records for a person’s federal employment career.

Ordinary Eyeglasses or Contact Lenses. Lenses that are intended to fully correct visual acuity or eliminate refractive error (eyeglasses or contact lenses that are the wrong prescription, or an

outdated prescription, may nevertheless be ordinary eyeglasses or contact lenses, if a proper prescription would fully correct visual acuity or eliminate refractive error.)

Personal Assistance Services. Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a RA, including, for example, assistance with removing and putting on clothing, eating, and using the restroom. ([29 CFR § 1614.203](#))

Personal Assistance Provider. An employee or independent contractor whose primary job functions include provision of PAS. ([29 CFR § 1614.203](#))

Personally Identifiable Information (PII). Any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. ([DG 0100-002](#), *USDA Departmental Directives Definitions Glossary*, September 26, 2018)

Physical or Mental Impairment. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or 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. ([29 CFR § 1630.2\(h\)](#))

Qualified. With respect to an individual with a disability, someone who satisfies the requisite skill, experience, education and other job-related requirements of the employment job such individual holds or desires and, with or without RA, can perform the essential functions of such job. ([29 CFR § 1630.2\(m\)](#))

Reasonable Accommodation. Change or adjustment to a job application process that helps a qualified applicant with a disability to be considered for the job such qualified applicant desires; or change or adjustment to the work environment, or to the manner or circumstances under which the job held or desired is customarily performed, that helps an individual with a disability who is qualified to perform the essential functions of that job; or change or adjustment that helps an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities. ([29 CFR § 1630.2\(o\)\(1\)](#))

Rehabilitation Program. In-patient and out-patient programs, as well as appropriate employee assistance programs, professionally recognized self-help programs, such as Narcotics Anonymous, or other programs that provide professional (not necessarily medical) assistance and counseling for individuals who illegally use drugs. ([29 CFR Part 1630 Appendix](#))

Section 501 of the Rehabilitation Act, as Amended. Section 501 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in federal employment, and requires agencies to provide RA to a qualified employee or job applicant with a disability, unless

doing so would be an undue hardship on the agency. Section 501 also requires the Federal Government to be a model employer of persons with disabilities. The standards for determining employment discrimination under the Section 501 of the Rehab Act are the same as those used in Title I of the ADA.

Staff Office. Departmental administrative offices whose heads report to officials within the Office of the Secretary.

Supervisor. An individual employed in USDA having authority, in the interest of an agency, to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline and remove employees; to adjust their grievances or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment. Except with respect to any unit which includes firefighters or nurses, the term “supervisor” includes only those individuals who devote a preponderance of their employment time to exercising such authority.

Targeted Disability. A disability designated as a “targeted disability or health condition” on [OPM SF-256](#) or a disability falling under one of the first 12 categories of disability listed in Part A of question 5 of the EEOC’s Demographic Information on Applicants Form. ([29 CFR § 1614.203](#))

Undue Hardship. Significant difficulty or expense in, or resulting from, the provision of the accommodation. ([29 CFR § 1630.2\(p\)](#))

APPENDIX C

AUTHORITIES AND REFERENCES

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[Executive Order 13164](#), *Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation*, July 26, 2000

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Personnel Records, [5 CFR Part 293](#), November 9, 1979

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Prohibited Personnel Practices, [5 U.S.C. Section 2302](#), October 31, 1998

Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act, [29 CFR Part 1630](#), July 26, 1991

Schedules of Controlled Substances, [21 U.S.C. §812](#), November 9, 1990

Section 508 of the Rehabilitation Act of 1973, as amended in 1992 and 1998, [29 U.S.C. § 794 \(d\)](#)

USDA, Form AD-1163, *Request for or Confirmation of Reasonable Accommodation/Personal Assistance Services*

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USDA, [Plan for a Drug Free Workplace](#), April 19, 2011

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USDA, [DR 2300-005](#), *Agriculture Travel Regulation*, December 8, 2015

USDA, [DR 4070-771-001](#), *Administrative Grievance System*, September 10, 2019

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USDA, [DR 4200-001](#), *Workplace Violence and Response Program*, April 17, 2013