



## REASONABLE ACCOMMODATION POLICY AND PROCEDURES

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## **Part I – General Provisions**

### **A. Purpose**

This document establishes the Federal Communications Commission’s (FCC) policy and procedures for the employment of persons with disabilities. The primary objectives of this policy are to ensure equal employment opportunity (EEO) for employees and applicants for employment without regard to disability, define the roles and responsibilities regarding the employment of persons with disabilities, as well as provide procedures for expanding employment opportunities for people with disabilities and processing requests for reasonable accommodation.

### **B. Policy**

The FCC’s policy is to ensure that employees and applicants for employment will not be discriminated or retaliated against on the basis of any disability. Accordingly, the FCC takes effective action to recruit, hire, develop and advance employees with disabilities, including targeted disabilities, to the fullest extent possible and ensures that all individuals with disabilities are accorded equal employment opportunities. Further, the FCC is fully committed to making agency facilities accessible, and reasonably accommodating the known physical or mental limitations of individuals by providing an accommodation that does not impose an undue hardship on FCC operations.

### **C. Coverage**

This policy applies to all employees or job applicants. FCC employees include all FCC employees, regardless of appointment type (competitive or excepted), career status (temporary, career-conditional, or career), occupation, or work schedule (full-time, part-time, or temporary).

### **D. Distribution**

This policy will be posted on the Office of Workplace Diversity websites on the FCC internet and FCC intranet pages, and made available to all employees and FCC job applicants in written and accessible formats. For additional accessible formats, including all attachments to this policy, please contact the Office of Workplace Diversity at [owdinfo@fcc.gov](mailto:owdinfo@fcc.gov).

### **E. Responsibilities**

1. *The Chairman.* The Chairman is responsible for EEO programs at the FCC to include:
  - a. Ensuring that all FCC management officials are held accountable for achieving the objectives of this policy and fulfilling EEO requirements to prevent discrimination against employees or applicants based on disability.

- b. Ensuring that FCC operations adhere to EEO principles in its human capital policies and practices relating to the employment, development, advancement, and treatment of FCC employees or applicants regardless of disability.

2. *Director, Office of Workplace Diversity.* The Director, Office of Workplace Diversity (OWD) develops and implements the FCC's disability anti-discrimination program consistent with the requirements of 29 C.F.R. § 1614.102(c) and other relevant statutory and regulatory provisions. Specific responsibilities include:

- a. Advising and reporting findings to the Chairman on disability discrimination cases and other matters arising from this policy's implementation.
- b. Providing guidance and advice concerning equality of opportunity for persons with disabilities in all aspects of employment, including information about new requirements and changes in disability laws.
- c. Proposing, developing, and reviewing FCC policies and procedures to promote equality of opportunity for individuals with disabilities, including examining agency efforts to provide reasonable accommodations and making facilities accessible, and generating reports to track the agency's compliance with disability laws and regulatory requirements.
- d. Managing the EEO discrimination complaint process, including claims involving denials of requests for reasonable accommodation.
- e. Collaborating with the Human Resources Management office (HRM) and the Learning and Development Service Center to ensure regular and appropriate guidance and training are provided to employees and management officials concerning the agency's reasonable accommodation process and the various hiring programs and other resources available for recruiting, promoting, and retaining persons with disabilities.
- f. Collaborating with HRM, Recruitment & Staffing Service Center (RSSC) to address barriers that affect recruitment, hiring, retention, and promotion of individuals with disabilities and recommending specific remedies to remove such barriers.

3. *The Chief Human Capital Officer (CHCO).* The CHCO coordinates the employment of persons with disabilities with OWD and provides human capital advice as it relates to disability employment. Specific responsibilities include:

- a. Reviewing and updating the agency's plan for increasing employment and retention of individuals with disabilities and monitoring implementation of the plan.

- b. Taking affirmative employment actions to promote equality of opportunity for individuals with disabilities and targeted disabilities in all stages of employment including recruitment, hiring, placement, training, and career development (*e.g.*, providing written material in an accessible format).
  - c. Regularly reviewing agency procedures to ensure that vacancy announcements and hiring and promotion procedures include information describing how applicants may submit reasonable accommodation requests.
  - d. Collaborating with the Director, OWD to ensure that guidance and training are provided to agency personnel regarding all matters under this policy.
4. *Reasonable Accommodation Coordinator (RAC)*. The RAC provides assistance and guidance on the requirements of this policy and ensures that management officials and employees are informed of any new requirements and changes in disability laws. Specific responsibilities include:
- a. Implementing the FCC's reasonable accommodation procedures consistent with this policy, governing laws and regulations, executive orders, and EEOC directives.
  - b. Providing guidance and delivering training to employees and management officials concerning the agency's reasonable accommodation procedures.
  - c. Establishing effective tracking systems to monitor the processing of reasonable accommodation requests.
  - d. Regularly reviewing and analyzing the FCC's reasonable accommodation process.
  - e. Managing the FCC's reasonable accommodation procedures, to include providing necessary guidance and technical assistance to managers, supervisors, employees, and applicants regarding requests for reasonable accommodation, and consulting with other agency offices and officials as necessary.
  - f. Assisting FCC management officials in evaluating accommodations that have been provided to ensure their continued effectiveness.
  - g. Requesting and reviewing medical information if an impairment or need for accommodation is not obvious to include having medical information reviewed by an external Medical Review Official (MRO) of the agency's choosing and at the agency's request and expense.
  - h. Serving as the deciding official for reasonable accommodation requests from applicants.

- i. Participating in annual training relating to disability laws and regulations, to include training related to the provision of reasonable accommodations.

5. *Supervisors and/or Managers.* All supervisors and managers are responsible for ensuring equality of opportunity in the workplace for individuals with disabilities. Specific responsibilities relating to reasonable accommodation and nondiscrimination based on disability include:

- a. Consulting with the RAC in connection with all requests for reasonable accommodation.
- b. Consulting with the RAC in assessing reasonable accommodation options for an employee whose limitations or need for accommodation is obvious, even when the employee has not requested an accommodation.
- c. Receiving and promptly responding to employee requests for accommodation, including contacting the RAC when a request for accommodation is initially received, engaging in the interactive process, identifying essential job functions and potential accommodations, and maintaining the confidentiality of accommodation information.
- d. Providing approved accommodations and regularly evaluating the effectiveness of such accommodations in consultation with the RAC.
- e. Ensuring there is no retaliation against any employee who requests a reasonable accommodation.

6. *Employees.* Employees are responsible for:

- a. Keeping informed of their rights and obligations as outlined in this policy. Informing FCC management officials of the need for reasonable accommodation when an employee's limitations or need for accommodation is not obvious.
- b. Providing the RAC with specific information, when requested, related to limitations resulting from a disability and identifying accommodations when the limitations or need for accommodations is not obvious.
- c. Cooperating with FCC management officials throughout the reasonable accommodation process, including communicating during the interactive process.

7. *The Office of General Counsel (OGC).*

- a. The OGC Litigation Division represents the FCC in disability discrimination complaints before the EEOC and Federal Courts.

- b. The OGC Administrative Law Division provides advice and guidance to the Managing Director for reconsideration requests of reasonable accommodation decisions.

8. *Office of the Chief Information Officer (OCIO) IT Section 508 Program Manager.* OCIO IT Section 508 Program Manager coordinates with the RAC, management officials, employees, and applicants to identify and help provide appropriate assistive technology and services in connection with accommodation requests.

9. *Administrative Service Center (ASC).* ASC coordinates with the RAC, management officials, employees, and applicants to identify and help provide office needs, resources, and services in connection with accommodation requests.

## **F. Definitions**

1. *Essential Functions.* Those job duties that are so fundamental to a position that the employee holds or applicant seeks to hold that he or she cannot do the job without performing them. A function can be “essential” if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or if the function is specialized and the person is hired based on his or her ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.

2. *Impairment.* A physiological disorder affecting one or more body systems or a mental or psychological disorder.

3. *Disability.* The term “disability” means, with respect to an individual:

- a. a physical or mental impairment that substantially limits one or more major life activities of such individual;
- b. a record of such an impairment;
- c. being regarded as having such an impairment.

A person must satisfy at least one of these three parts of the definition to be considered a person with a disability.

4. *Interactive Process.* The procedure in which the supervisor, manager, and the RAC work collaboratively with the person requesting an accommodation to determine if an effective accommodation can be put in place.

5. *Major Life Activities.* Activities that are of central importance to daily life. Major life activities include, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and the operation of a major bodily function.

6. *Qualified Employee.* An employee will be qualified if he or she (1) satisfies the requisite skill, experience, education, and other job-related requirements of the position, and (2) can perform the essential functions of the position with or without reasonable accommodation.

7. *Reasonable Accommodation.* Any change in the work environment or in the way things are customarily performed that would enable a person with a disability to enjoy equal employment opportunities. Common types of reasonable accommodations include:

- a. moving to different office space;
- b. modifying work schedules
- c. granting breaks or providing leave
- d. altering how or when job duties are performed
- e. providing telework
- f. removing an architectural barrier, including reconfiguring work space
- g. providing a reader, sign language interpreter, or other assistant
- h. providing accessible parking
- i. providing materials in alternative format (e.g., Braille, large print)

8. *Targeted Disabilities.* A subset of disabilities that includes deafness, blindness, missing extremities, partial paralysis, complete paralysis, compulsive disorders, mental retardation, mental illness, and genetic or physical conditions affecting the limbs or spine.

9. *Personal Assistance Services.* Personal Assistance Services (PAS) are services that help individuals who, because of targeted disabilities, require assistance to perform basic activities of daily living, like removing and putting on clothing, eating and using the restroom.

10. *Undue Hardship.* A determination made on a case-by-case basis that a specific accommodation would cause significant difficulty or expense for the agency to provide. In such instances, the agency does not have to provide the accommodation. The factors considered in assessing undue hardship include but are not limited to: the nature and cost of the accommodation needed; the overall financial resources of the agency making the accommodation; and the effect of the accommodation on the operation of the agency.

## **Part II – Reasonable Accommodation Procedures for FCC Employees**

### **A. Requests for Reasonable Accommodation**

1. An employee, or employee's representative, must advise his or her supervisor, manager, the RAC, or the OWD that he or she needs an adjustment or change at work for a reason related to an impairment or medical condition, unless the employee's limitation or need for accommodation is obvious. A request does not have to include any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act."



2. An employee may request a reasonable accommodation at any time, orally or in writing, as no specific form is required to begin processing the request. The employee, however, must also subsequently complete FCC Form 5626, *Request for Reasonable Accommodation*, and submit it to his or her supervisor, manager, the RAC, or the OWD to confirm the request.

3. A family member, health professional, or other representative may, with proper authorization from the employee, request an accommodation on behalf of an employee. For example, submission of a doctor's note outlining medical restrictions for an employee may constitute a request for reasonable accommodation.

4. For recurring requests of the same type (e.g. the assistance of sign language interpreters or readers), submission of a reasonable accommodation request is required only for the initial request. In the case of recurring requests for the assistance of a sign language interpreter, the employee should consult the FCC Section 504 Programs and Activities Accessibility Handbook and contact the RAC for further guidance.

## **B. Processing a Request for Reasonable Accommodation**

1. When an employee (or employee's representative) requests a reasonable accommodation, the supervisor or manager must notify the RAC to ensure that the request is processed swiftly and appropriately in accordance with this policy.

2. The reasonable accommodation process begins as soon as the employee (or employee's representative) makes an oral or written request for accommodation to a supervisor, manager, the RAC, or OWD personnel. If an employee makes an oral request for accommodation, the official receiving the oral accommodation request must notify the RAC and inform the employee to complete and submit FCC Form 5626, *Request for Reasonable Accommodation*. Upon notification to the RAC of the request, the RAC will initiate the interactive process described below.

## **C. The Interactive Process**

1. *Generally.* After an employee requests an accommodation, the RAC, will discuss the request with the employee, the employee's supervisor(s), and any other relevant agency officials. Specifically, the RAC should discuss the employee's current job to determine its essential functions, the job-related limitations imposed by the individual's impairment, how those limitations could be overcome with an accommodation, potential accommodations, including the accommodation the employee prefers, the healthcare provider's recommended accommodation, and whether implementation of the accommodation is effective and or creates an undue hardship for the agency.

- a. The RAC should begin this discussion by contacting the employee within five business days after the request is received. If medical documentation is required, the RAC will request it from the employee, pursuant to Part II.D., below.

- b. If an employee's representative requests an accommodation on behalf of an employee, the RAC must confirm with the employee, where possible, that he or she wants the requested accommodation before proceeding. The employee or employee's representative, must provide written documentation designating the representative to act on the employee's behalf.
- c. On-going communication via the interactive process is particularly critical when the disability, need for accommodation, or type of accommodation needed, is not obvious or management is considering alternatives to the requested accommodation. However, even in cases where such information is clear and the need obvious, the requesting employee, RAC, and relevant FCC officials should still engage in a full exchange of relevant information. Employees can also track and learn the status of the processing of their requests for reasonable accommodation by contacting the RAC.
- d. As part of the interactive process, alternative effective accommodations may be offered, and these alternatives should be discussed with the employee. The FCC does not have to provide the exact accommodation the employee requests. If more than one accommodation would be effective in allowing the employee to perform the essential functions of the position, the FCC may offer an alternative accommodation than the one requested.

2. *Reassignment to a Vacant Position.* The following procedures apply when an employee requests reassignment as a reasonable accommodation:

- a. Reassignment to a vacant position for which the employee is qualified must be considered as a reasonable accommodation if no other accommodations are available to enable the employee to perform the essential functions of his or her current position. Reassignment is the accommodation of last resort. The FCC is not required to create a new position as a reasonable accommodation for an employee. Reassignment is to a position in the permanent workforce, not a detail or temporary position.
- b. In considering whether there are positions available for reassignment, the RAC should work with the employee requesting a reasonable accommodation and staff from Human Resources Management to identify vacant, funded positions within the agency for which the employee is qualified to be reassigned, with or without reasonable accommodation;
- c. The focus of the reassignment search should be positions that are equivalent to the employee's current position in terms of pay, status, and other relevant factors, including the employee's commuting area. If there is no vacant equivalent position, the FCC may search for vacant lower level positions for which the employee is qualified.

- d. If the employee requests reassignment to a vacant position outside of his or her commuting area and the employee can be accommodated within the local commuting area, the FCC may, but is not required to, grant the request.

#### **D. Medical Documentation**

1. If an employee's disability or need for accommodation is not obvious or already known, the FCC may ask the employee for sufficient medical documentation to establish that the employee has a disability, explain the nature of the disability, his or her need for reasonable accommodation, and how the requested accommodation, if any, will assist the individual to perform the essential functions of a job or enjoy the benefits and privileges of the workplace.
2. In determining whether medical documentation is necessary or sufficient, the RAC should be guided by the principles set forth in the ADA, as amended, the Rehabilitation Act, the EEOC's associated rules and guidance, executive orders, relevant legal precedent and advice from OGC.
3. The RAC may only request medical documentation related to the impairment at issue in the accommodation request. Typically, medical documentation may be sought to substantiate: the nature, severity, and duration of the employee's medical impairment; the activity or activities that the impairment limits; the extent to which the impairment limits the employee's ability to perform the essential job function(s); how the requested reasonable accommodation will assist the employee in performing the essential functions of the job or enjoying a benefit of the workplace; and whether there are alternative accommodations that would be effective. The employee will be provided FCC Form 5627, Medical Consent Form by the RAC, which gives the employee to option authorize the RAC to contact the employees' health care providers directly for the limited purpose of gaining sufficient information to substantiate that the employee has a disability and needs the accommodation requested.
4. Pursuant to the Genetic Information Nondiscrimination Act of 2008 (GINA), the FCC may not request or require genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, employees and applicants for employment may not be asked to provide genetic information in response to a request for medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services or participated in genetic research, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.
5. In most instances, the employee will be able to furnish medical information sufficient to substantiate the existence of a disability or need for accommodation as part of the interactive process. If the information furnished by the employee is insufficient to make a determination, the RAC may require additional or supplemental medical information for the purposes specified in Part II.D.1., 3 - 4, above from a healthcare

provider. The RAC should explain to the employee why the documentation is insufficient and provide the employee an opportunity to provide the missing information in a timely manner. Additionally, the RAC may contact the healthcare provider directly for sufficient supplemental information if authorized by the employee on FCC Form 5627, Medical Consent, which authorizes the RAC to contact the employee's health care providers directly for the limited purpose of gaining sufficient information to substantiate that the employee has a disability and needs the accommodation requested.

6. Upon receipt, the RAC will review the requested medical documentation. Additionally, the FCC has the right to have medical information reviewed by a medical expert of the FCC's choosing at the FCC's expense.
7. All medical documentation is subject to the confidentiality requirements below.
8. The RAC will advise the supervisor or manager whether the medical documentation received demonstrates that the employee has a disability and whether a reasonable accommodation is appropriate. The RAC will provide any relevant information about the employee's functional limitations to permit further processing of the accommodation request.
9. The ultimate responsibility for providing medical documentation rests with the employee. If the employee requesting an accommodation fails to provide sufficient medical documentation or cooperate in the FCC's efforts to obtain such documentation, the FCC may deny the request.
10. In cases where an employee has been provided reasonable accommodation, the FCC may periodically require additional medical documentation for purposes of ensuring that the accommodation remains effective or is still needed.

## **E. Confidentiality Requirements**

1. Medical documentation must be kept confidential in accordance with applicable laws, regulations, and this policy.
  - a. All medical documentation related to the reasonable accommodations process must be kept confidential and in a file separate from the employee's Official Personnel File.
  - b. The confidentiality requirement extends to the fact that an employee requested an accommodation, that an accommodation was approved or denied, and information about functional limitations.
  - c. **Any FCC employee who obtains or receives medical information associated with an accommodation request is strictly bound by these confidentiality requirements.**

2. The RAC will maintain custody of records obtained or created during the processing of a request for reasonable accommodation, including medical records, in accordance with the Privacy Act, 5 U.S.C. § 552a, *et. seq.*, and 29 C.F.R. §§ 1611 and 1630.14.

3. Certain information may be shared with appropriate officials on a “need to know” basis to make a determination concerning a reasonable accommodation request. The only information that will be disclosed is the amount of information necessary to process the request. These officials will be informed about the confidentiality requirements in the reasonable accommodation process. There are limited exceptions that permit disclosure outside of the reasonable accommodation process, such as to:

- Supervisors and managers who need to know the necessary restrictions on the work or duties of the employee and necessary accommodations;
- First aid and safety personnel if the disability might require emergency treatments;
- Government officials investigating compliance with the ADA must be given relevant information on the request;
- State workers’ compensation offices, state second injury funds or workers’ compensation insurance carriers in accordance with state workers’ compensation laws; and
- Use the information for insurance purposes.

## **F. Time Limits**

1. Upon completion of the interactive process, the RAC will issue a decision memorandum on the reasonable accommodation request and provide the accommodation, if granted, within **20 business days** after the initial request is made, absent extenuating circumstances.

- a. If the disability is obvious or already known to the supervisor, if it is clear why reasonable accommodation is needed, if medical documentation is not required to evaluate a request, or if an accommodation can be provided quickly, the request for accommodation should be granted and provided in less than the 20-business day maximum. Where a particular reasonable accommodation can be provided in less than the maximum time, failure to provide the accommodation in a prompt manner may result in a violation of the Rehabilitation Act.
- b. The agency will not be expected to adhere to its usual timelines if an employee’s health professional fails to provide needed documentation in a timely manner. Where necessary, the 20-business day period will be extended by the amount of time necessary to request, receive, and evaluate requested medical documentation.

2. *Expedited Processing.* In certain situations, the processing of a request must be expedited. This may be necessary, for example, to allow an employee who needs a sign language interpreter to attend a recently scheduled meeting. The employee,

RAC, and relevant agency officials should effectively communicate to identify requests requiring expedited processing.

3. *Extenuating Circumstances.* These are circumstances that could not reasonably have been anticipated or avoided or that are beyond the FCC's ability to control. Extenuating circumstances include, but are not limited to, the need to obtain and evaluate medical information, the purchase of equipment, and the removal of architectural barriers. When extenuating circumstances are present, the time for processing a request will be extended as necessary.
  - a. Where there is a delay in processing a request or providing a reasonable accommodation, the RAC in consultation with the supervisor will notify the employee of the reason for any delay, including any extenuating circumstances that justify the delay, and the approximate timeframe in which a decision regarding the provision of the reasonable accommodation should be expected.
  - b. If there is a delay in deciding or providing an approved accommodation, and it is reasonably likely that the employee will be entitled to a reasonable accommodation, the RAC in consultation with the supervisor will provide an interim accommodation that allows the employee to perform some or all of the essential functions of his or her position, if it is possible to do so without imposing an undue hardship on the FCC.

## **G. Procedures for Providing Personal Assistance Services (PAS) for Employees with Targeted Disabilities**

Although distinguishable from requests for accommodation, requests for PAS will be initiated, processed and otherwise addressed in the same manner.

## **H. Resolution of Requests for Reasonable Accommodation**

All decisions regarding requests for reasonable accommodation will be communicated to the employee in writing. The RAC, in consultation with the supervisor, will draft and issue the decision memorandum to the employee. A copy of the memorandum must be maintained by the RAC.

1. *Approving a Request.*
  - a. After receiving the decision memorandum, there should be a discussion with all parties on the implementation of the approved accommodation. Absent extenuating circumstances, the approved accommodations should be implemented as efficiently as possible.
  - b. The supervisor and/or the RAC should follow-up with the employee after the accommodation has been provided to ensure that it meets the employee's needs and periodically evaluate the accommodation, to ensure that it continues to be effective and necessary.

## 2. *Denying a Request.*

- a. When a requested accommodation is denied, either in whole or in part, the decision memorandum will explain the specific reason(s) for the denial and/or the reason(s) any alternative accommodation was determined to be effective. NOTE: Requests for accommodation are not denied for reasons of cost. Moreover, individuals with disabilities are not excluded from employment due to the anticipated cost of a reasonable accommodation, if the resources available to the agency as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation, would enable it to provide an effective reasonable accommodation without undue hardship.
- b. Common bases for denial are that the requested accommodation would not be effective, the medical documentation is inadequate to establish that the individual has a disability or needs a reasonable accommodation, the requested accommodation would require removal of an essential function, require the lowering of a performance standard, or that the accommodation would result in an undue hardship.
- c. The denial must inform the employee of the availability of the reconsideration process (*see* Part II.I.2 below), as well as OWD's alternative dispute resolution process, and that pursuing these processes do not affect the time limits for initiating an EEO complaint in accordance with 29 C.F.R. § 1614.105.
- d. The denial must also inform the employee of his or her right(s) to challenge the denial, including the right to file an EEO complaint pursuant to 29 CFR § 1614.106; a grievance under the Basic Negotiated Agreement (if applicable); a complaint with the Office of Special Counsel alleging a prohibited personnel practice; or invoke other statutory processes, as appropriate. The denial will also provide instructions on how to file such complaints.
- e. If the RAC, in consultation with the supervisor or other relevant agency officials, offers an accommodation other than the one requested and the employee refuses to accept it, the RAC will document the refusal. Such refusal will be treated as a denial of the accommodation request. The decision memorandum will explain why the employee's requested accommodation was denied, as well as why the alternative accommodation chosen by the agency would have been effective.

### **I. Reconsideration of a Denial of a Request**

1. Employees are encouraged to use the voluntary reconsideration process or other alternative dispute resolution processes to resolve reasonable accommodation issues informally.

2. Upon receiving a written denial of an accommodation, the employee may, within five calendar days, submit a written request to the Managing Director or his or her designee to reconsider the decision. The employee may present additional information or documentation in support of the reconsideration request. The Managing Director or his or her designee should respond to the request for reconsideration within **10 business days of receipt of the reconsideration request**. The Managing Director may contact OGC, Administrative Law Division for assistance and guidance. If the Managing Director is within the requesting employee's chain of command another Bureau or Office Chief will be designated by the Office of Workplace Diversity.
3. Pursuing reconsideration, alternative dispute resolution, or other review procedures does not affect the time limits for initiating an EEO complaint in accordance with 29 C.F.R. § 1614.105. If an individual wishes to pursue filing an EEO complaint, he or she must contact an FCC EEO Counselor or the OWD EEO Program Manager within **45 days** from the date of receipt of the decision memorandum denying the accommodation. Failure to timely contact an EEO counselor, the EEO Program manager or file an informal EEO complaint may result in a loss of the right to participate in the EEO complaint process by filing a formal EEO complaint.

## **Part III – Reasonable Accommodation Procedures for Applicants for Employment**

### **A. Request for Reasonable Accommodation**

1. The procedures governing the provision of reasonable accommodations to applicants for employment with the FCC are generally the same as those that apply to FCC employees, with the following exceptions:
  - a. Applicants requesting reasonable accommodations, including current FCC employees seeking accommodations related to an FCC vacancy announcement or application process, must submit accommodation requests to the administrative specialist identified as the agency Point of Contact on the vacancy announcement or to the RAC.
  - b. The HRM Staffing Specialist or RAC will contact the applicant within two business days after the request for reasonable accommodation is received to request that the applicant complete and submit FCC Form 5626, *Request for Reasonable Accommodation*, explain the agency's procedures for processing the request, and obtain any additional information from the applicant that may be necessary to process the requested accommodation.
  - c. The administrative specialist will provide the documentation for the requested accommodation to the RAC for processing. The RAC will contact the applicant and initiate the interactive process.



- d. Reassignment will not be considered as a reasonable accommodation for applicants.
- e. Depending on the timetable for receiving applications, conducting interviews, and making hiring decisions, there may be a need to expedite the request to ensure the applicant has an equal opportunity to apply for a position. Absent extenuating circumstances, the RAC will make a determination, in consultation with the hiring manager, and issue the decision memorandum swiftly, within a matter of days after the request is initially made or before the situation necessitating the provision of the accommodation (*i.e.*, the interview) occurs.

### **B. Decision on Reasonable Accommodation Request**

If approved, the RAC will discuss the implementation of the accommodation with the applicant and hiring manager. The administrative specialist should be advised of the decision, as well.

## **Part IV – Reporting Requirements, Information Tracking, and Recordkeeping Systems**

### **A. Documentation**

In order for the FCC to ensure compliance with this policy and its procedures as well as the Rehabilitation Act, executive orders, EEOC's rules, and EEOC policy guidance, the RAC will collect and maintain the following information:

1. The specific reasonable accommodation requested;
2. The position (occupational series, grade level, and agency component) sought by the requesting applicant or held by the requesting employee;
3. Whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment;
4. Whether the request was granted (which may include an accommodation different from the one requested) or denied;
5. The identity of the deciding official;
6. If denied, the basis for such denial; and
7. The number of days taken to process the request.
8. Any other records necessary to determine the FCC's compliance with the nondiscrimination and affirmative action requirements imposed under Section 501, the

Rehabilitation Act, and EEOC guidance. Any such records or reports will be made available to the EEOC upon request.

## **B. Reports and Assessments**

1. The RAC will maintain copies of all FCC Forms involving reasonable accommodation and provide a quarterly report to the Director, OWD. The RAC, upon request, will also provide other relevant materials to the Director, OWD and HRM-RSSC.
2. The RAC will provide a written assessment of the agency's reasonable accommodation process to the Director, OWD on a quarterly basis, which includes the number and types of accommodations requested and approved, the amount of time taken to process such requests, reasons for denials, and other relevant tracking information. This report should also include any recommendations for improving the agency's reasonable accommodation policy and procedures.
3. Because it is imperative that the FCC evaluate the effectiveness of its reasonable accommodation program, the Director, OWD in consultation and collaboration with the CHCO and the RAC, will periodically review the program and issue written reports regarding the status of the agency's reasonable accommodation procedures, including recommendations for improvement. The Director, OWD will disseminate all written reports to the agency Chairman, the CHCO, the RAC, and other appropriate agency officials. The reports may not contain confidential information about specific requests for reasonable accommodation but will include general information sufficient to provide a qualitative assessment of the agency's disability program.
4. The RAC will keep appropriate records and documentation to substantiate an employee's disability. In the event that there is a new supervisor or manager, the employee is responsible to contact the RAC so that the RAC can take the necessary steps to apprise the new supervisor or manager of existing accommodations.

## **C. Recordkeeping Systems**

1. The RAC will keep records related to a particular employee who has requested a reasonable accommodation in accordance with the records retention standards. These records include any documentation of the employee's disability or need for reasonable accommodation, as well as information about the disposition of the employee's accommodation request.
2. The RAC will keep any information or cumulative records used to track the FCC's performance regarding reasonable accommodation in accordance with the records retention standards. The RAC will use this tracking information to evaluate whether and where the FCC needs to improve its handling of reasonable accommodation requests. Upon request or in the fulfillment of EEOC requirements, the Director, OWD will assess the FCC's reasonable accommodation program.

## **Part V – Ensuring Disability Access to Electronic or Information Technology for FCC Employees and Applicants for Employment**

### **A. Accessibility**

In accordance with Section 508 of the Rehabilitation Act, as amended, the FCC, when developing, procuring, maintaining, or using electronic and information technology (*e.g.*, computers, databases, software, telephones or other telecommunications systems, photocopiers, agency web sites), is committed to ensuring that such technology allows persons with disabilities to have access to and use of information and data. Section 508 requires that alternative means of access be provided to persons with disabilities. Section 508 applies to agency technology used by employees as well as technology that may be used by members of the public to obtain information or services from the agency.

### **B. Complaint Procedures**

A person with a disability who alleges that the agency has failed to comply with Section 508 in providing electronic and information technology may file an administrative complaint with the agency within 45 calendar days of the alleged discriminatory incident. (*See* 29 U.S.C. § 794d(f).) An employee or applicant for employment with a disability who alleges that the agency has failed to provide accessible electronic or information technology may file a complaint by contacting a FCC EEO Counselor or the EEO Program Manager, Office of Workplace Diversity. Complaints by members of the public who have a disability must be raised under the procedures outlined in 16 C.F.R. Part 6. (*See also*, 29 U.S.C. § 794d(f)(2))

## **Part VI – Authority**

1. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.);
2. Rehabilitation Act of 1992, (29 U.S.C. § 701(g));
3. Rehabilitation Act of 1973, as amended, (29 U.S.C. § 791);
4. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation 65 Fed. Reg. 46,565 (July 26, 2000);
5. Equal Employment Opportunity Commission’s (EEOC) Federal Sector Regulations (29 C.F.R. Parts 1614 and 1630);
6. EEOC’s Management Directive 715 (October 2003);
7. Architectural Barriers Act of 1968, as amended, (42 U.S.C. §§ 4151-4157);
8. EEOC’s Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (October 20, 2000);

9. EEOC's Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the ADA (October 17, 2002);
10. Executive Order 13,548, Increasing Federal Employment of Individuals with Disabilities 75 Fed. Reg. 45039 (July 28, 2000); and
11. Executive Order 13,163, Increasing the Opportunity for Individuals With Disabilities to Be Employed in the Federal Government 65 Fed. Reg. 46,563 (July 30, 2010).

**Appendix – Reasonable Accommodation Forms**

FCC Form 5626 – *Request for Reasonable Accommodation*

FCC Form 5627 – *Medical Consent Form*