



DECA MANUAL 55-03.01

PROCEDURES FOR PROVIDING REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH DISABILITIES AND PERSONAL ASSISTANCE SERVICES

Originating Component:	Equal Employment Opportunity
Effective:	January 31, 2023
Releasability:	Unlimited. This manual is approved for public release and is located on DeCA's internet website at www.commissaries.com .
Reissues and Cancels:	DeCA Manual 55-03.1, "Procedures for Providing Reasonable Accommodation for Individuals with Disabilities," March 8, 2013
Approved by:	Kevin Hennelly, Equal Employment Opportunity Director

Purpose: This manual implements policy, assigns responsibilities, and provides guidance and procedures for processing requests for reasonable accommodation and personal assistance services.

- This manual implements a Reasonable Accommodation and Personal Assistance Service program for individuals with disabilities, as defined in the Defense Commissary Agency (DeCA) Directive 55-03. Executive Order 13164 requires all Federal Agencies to establish procedures for handling requests for disability reasonable accommodation. DeCA's Disability Reasonable Accommodation procedures comply fully with the requirements of Section 501 of the Rehabilitation Act of 1973, its amendments, and regulations of the Equal Employment Opportunity Commission (EEOC).
- This manual provides a clear, concise, and consistent framework for implementing DeCA's procedures for requesting and providing disability reasonable accommodation and personal assistance services. Applicants, employees, and supervisors/managers may also refer to the EEOC's "Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the American with Disabilities Act(ADA)" available at <https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ADA>, for more information on their rights and responsibilities in requesting and providing reasonable accommodation.

TABLE OF CONTENTS

SECTION 1: GENERAL ISSUANCE INFORMATION	4
1.1. Applicability.	4
1.2. Policy.	4
1.3. Information Collections.	4
SECTION 2: RESPONSIBILITIES	6
2.1. Agency Official (AO).	6
2.2. Decision Maker/Deciding Agency Official	6
2.3. Disability Program Manager (DPM).	6
2.4. Reasonable Accommodation Panel.....	6
2.5. Equal Employment Opportunity (EEO) Director	6
SECTION 3: REASONABLE ACCOMMODATION OVERVIEW	7
3.1. Reasonable Accommodaton (RA).	7
3.2. Types of Reasonable Accommodations.....	7
3.3. General Information	8
SECTION 4: DISABILITY REASONABLE ACCOMMODATION PROCEDURES	10
4.1. Request for Disability Reasonable Accommodation.	10
4.2. Reasonable Accommodation Examples.....	10
4.3. Format of Reasonable Accommodation Requests.	11
4.4. Request Outside Chain of Command.....	11
4.5. Multiple Requests for Accommodation	12
4.6. Subsequent Requests for Reasonable Accommodation	12
4.7. Third Party Requests for Reasonable Accommodation	12
SECTION 5: TIME LIMITS AND PROCEDURES FOR PROCESSING REQUESTS	14
5.1. Time Limits for Processing Requests.	14
5.2. Extenuating Circumstances.....	15
5.3. Interim Accommodations.....	15
5.4. Interactive Process.	16
5.5. Obvious Disabilities.....	16
5.6. Granting a Disability Reasonable Accommodation Request.....	17
5.7. Temporary Accommodations.....	17
5.8. Sign Language Interpreters.	18
5.9. Reassignment.	18
5.10. Denial of a Request for Disability Reasonable Accommodation.	19
5.11. Informal Dispute Resolution and Equal Employment Opportunity Complaints.....	19
5.12. Procedures Relevant to Statutory and Collective Bargaining Claims.....	20
SECTION 6: MEDICAL INFORMATION	21
6.1. Agency Request for Medical Information.	21
6.2. Examination by an Agency Physician.	21
6.3. Genetic Information Non-Discrimination Act (GINA) of 2008	21
SECTION 7: CONFIDENTIALITY REQUIREMENTS	23
7.1. Confidentiality Requirements	23
SECTION 8: PERSONAL ASSISTANCE SERVICES (PAS)	24

8.1. Personal Assistance Services.....	24
8.2. Types of Personal Assistance Services.....	24
8.3. Requesting Personal Assistance Services	24
SECTION 9: REASONABLE ACCOMMODATION RESOURCES	25
9.1. Reasonable Accommodation Resources	25
GLOSSARY	26
G.1. Acronyms.....	26
G.2. Definitions.....	27
REFERENCES.....	29

TABLES

Table 1 Flow Chart of the Reasonable Accommodation Interactive Process.....	13
---	----

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This manual applies to all DeCA activities and all DeCA personnel in accordance with Department of Defense (DoD) Directive 5105.55. These procedures will be distributed electronically to all employees upon issuance. They will also be posted on the DeCA public website and intranet. New employees, and supervisors will also be informed of these procedures as part of their compliance training. DeCA will make these procedures and the accompanying forms available to job applicants and employees in accessible formats. Individuals who need a copy of these procedures in accessible formats (e.g., braille or large print) should notify the Disability Program Manager (DPM).

1.2. POLICY. It is the policy of DeCA to ensure equal access and employment opportunities to qualified employees and applicants with disabilities. DeCA will provide a reasonable accommodation when a qualified employee or applicant with a disability needs it:

- a. To have an equal opportunity to apply for and compete for an open position;
- b. To gain access to the workplace;
- c. To perform essential functions of their job; or
- d. To enjoy equal access to benefits and privileges of employment that are available to individuals without disabilities.

1.3. INFORMATION COLLECTIONS. DeCA will keep all records that may be used to determine compliance with the nondiscrimination and affirmative action requirements imposed under Section 501 of the Rehabilitation Act, and to make such records available to EEOC upon EEOC's request. EEOC tracks statistics on the employment by federal agencies of people with disabilities.

a. The DPM will track and report information on the provision of reasonable accommodation throughout DeCA. An applicant for employment or an employee may obtain the status of their request for reasonable accommodation by contacting the DPM.

b. The DPM will provide information to the EEO Director to allow for the preparation of the annual report to evaluate DeCA's performance in responding to requests for accommodation. This report will include the following:

- (1) The specific reasonable accommodation;
- (2) The job (occupational series, grade level, and agency component) sought by requesting applicant or held by the employee;

(3) Whether the accommodation was needed to apply for a job, gain access to the workplace, perform the essential functions of a job, or enjoy the benefits and privileges of employment;

(4) Whether the request was granted or denied;

(5) The identity of the deciding official;

(6) The basis of the denial; and

(7) The number of days taken to process the request.

SECTION 2: ROLES AND RESPONSIBILITIES

2.1. AGENCY OFFICIAL: An Agency Official (AO) is an agency employee who manages a process or staff that may need to be involved in or is made aware of a reasonable accommodation request. An AO may also be responsible for implementing all or part of the accommodation. Examples of an agency official for this purpose may include the hiring official for a job, an employee's supervisor, the DPM, Human Resources (HR) staff, General Counsel (GC) staff, Information Technology (IT) staff, facilities staff, or other persons who would be in charge of a process (e.g., interpreter services, travel, etc.) that an applicant or employee might contact regarding a need for reasonable accommodation. All agency officials, managers, and supervisors are responsible for knowing and following the requirements defined in this manual.

2.2. DECISION MAKER/DECIDING AGENCY OFFICIAL: The decision maker is an AO who is responsible for making the decision and implementing the reasonable accommodation request. In most cases, the employee's immediate supervisor or a second-level supervisor (in some cases) in the supervisory chain is the decision maker.

2.3. DISABILITY PROGRAM MANAGER: The DPM is responsible for overseeing the agency's reasonable accommodation process and ensuring the agency's compliance with the processes defined in this manual. The DPM serves as a resource for individual with disabilities (IWDs) and activity decision makers. The DPM is also responsible for reporting concerns, including possible noncompliance with direction, to appropriate management officials such as the Agency EEO Director or a higher-level manager in the non-compliant employee's chain of supervision.

2.4. REASONABLE ACCOMMODATION PANEL. A reasonable accommodation panel consisting of the DPM, supervisor of the employee requesting accommodation, and the HR specialist supporting the requestor's organization will meet, if needed, to collectively determine if an effective accommodation is available. Meetings will occur after the DPM has recommended that requestor is disabled as defined in the ADA. The panel may draw on resources such as subject matter experts in safety, facilities, and operational areas to determine whether the requestor can perform the essential functions of their job with or without reasonable accommodation, as defined in the ADA. If needed, the panel may request advice from the Office of General Counsel (OGC) prior to providing a recommendation to the decision maker.

2.5. EQUAL EMPLOYMENT OPPORTUNITY (EEO) DIRECTOR. The EEO director is responsible for supervising the DPM and ensuring there is an appropriate "firewall" between the disability accommodation process and the EEO counseling and discrimination complaint program. The EEO director is also responsible for obtaining adequate resources for the reasonable accommodation process and reporting to agency leadership regarding the operation of the program and any deficiencies identified by the EEO director or the DPM.

SECTION 3: REASONABLE ACCOMMODATION OVERVIEW

3.1. REASONABLE ACCOMMODATION (RA).

a. Authority. Chapter 126 of Title 42, United States Code, “Americans with Disabilities Act of 1990,” requires an employer to provide RA to qualified individuals with disabilities who are employees or applicants for employment, unless doing so would cause undue hardship. In general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.

b. Policy. DeCA will provide a reasonable accommodation:

(1) When an applicant with a disability needs an accommodation to have an employment opportunity in the application process;

(2) When an employee with a disability needs an accommodation to perform the essential functions of the job held, or to gain access to the workplace; and

(3) When an employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., details, training, teambuilding events).

c. The only statutory limitation on DeCA’s obligation to provide RA is that no such change or modification is required if it would cause undue hardship to DeCA. The agency must assess, on a case-by-case basis, whether a particular RA would cause undue hardship. Undue hardship means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to RAs that are unduly extensive, substantial, disruptive, or those that would fundamentally alter the nature or operation of business. DeCA must consider all resources available to the DoD as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation, prior to denying a request based on the cost of the accommodation.

3.2. TYPES OF REASONABLE ACCOMMODATION. There are three categories of RA:

a. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position the applicant desires; or

b. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or

c. Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

3.3. GENERAL INFORMATION.

a. The duty to provide RA is a fundamental statutory requirement because of the nature of discrimination faced by individuals with disabilities. Although many individuals with disabilities can apply for and perform jobs without any RAs, there are workplace barriers that keep others from performing jobs which they could do with some form of accommodation. These barriers may be physical obstacles (such as inaccessible facilities or equipment), or they may be procedures or rules (such as rules concerning when work is performed, when breaks are taken, or how essential or marginal functions are performed). An RA removes workplace barriers for individuals with disabilities.

b. An RA is available to qualified applicants and employees with disabilities. An RA must be provided to qualified employees regardless of whether they work part time or full time or are considered "probationary." Generally, the individual with a disability must inform DeCA that an accommodation is needed.

c. There are a number of possible reasonable accommodations that DeCA may have to provide in connection with modifications to the work environment or adjustments in how and when a job is performed. These include:

- (1) Making existing facilities accessible;
- (2) Part-time and modified work schedules;
- (3) Acquiring or modifying equipment;
- (4) Changing tests, training materials, or policies;
- (5) Providing qualified readers or interpreters; and
- (6) Reassignment to a vacant position.

d. A modification or adjustment is "reasonable" if it seems reasonable on its face, i.e., ordinarily or in the run of cases, this means it is "reasonable" if it appears to be "feasible" or "plausible." An accommodation also must be effective in meeting the needs of the individual. In the context of job performance, this means that a reasonable accommodation enables the individual to perform the essential functions of the position. Similarly, a reasonable accommodation enables an applicant with a disability to have an equal opportunity to participate in the application process and to be considered for a job. Finally, a reasonable accommodation

allows an employee with a disability an equal opportunity to enjoy the benefits and privileges of employment that employees without disabilities enjoy.

e. There are several modifications or adjustments that are not considered forms of RA. An employer does not have to eliminate an essential function, i.e., a fundamental duty of the position. This is because a person with a disability who is unable to perform the essential functions, with or without RA, is not a “qualified” individual with a disability within the meaning of the ADA. Nor is DeCA required to lower production standards—whether qualitative or quantitative—that are applied uniformly to employees with and without disabilities. DeCA may have to provide RA to enable an employee with a disability to meet the production standard. While DeCA is not required to eliminate an essential function or lower a production standard, the agency may do so if it wishes.

f. DeCA does not have to provide as reasonable accommodations personal use items needed in accomplishing daily activities both on and off the job. Thus, DeCA, is not required to provide an employee with a prosthetic limb, a wheelchair, eyeglasses, hearing aids, or similar devices if they are also needed off the job. Furthermore, DeCA is not required to provide personal use amenities, such as a hot pot or refrigerator, if those items are not provided to employees without disabilities. However, items that might otherwise be considered personal may be required as RAs where they are specifically designed or required to meet job-related rather than personal needs.

SECTION 4: DISABILITY REASONABLE ACCOMMODATION PROCEDURES

4.1. REQUEST FOR DISABILITY REASONABLE ACCOMMODATION. DeCA will process requests for disability reasonable accommodation in a prompt and efficient manner in accordance with the time frames set forth in this guidance. Requests for accommodation can be made orally or in writing, at any time, indicating an applicant or employee needs an adjustment or change in the application process or work environment for reasons related to a medical condition. The reasonable accommodation process begins when an applicant or an employee makes a request orally or in writing. Therefore, it is important for supervisors and managers to be trained and knowledgeable to recognize when a request is being presented. There is not a need for the applicant or employee to mention laws like Section 501 or use the phrase “reasonable accommodation” or mention they have a disability when requesting an accommodation. At the moment an applicant or employee indicates either orally or in writing that they need a workplace change or modification or is having a problem and the need or problem is related to a medical condition, it may be a reasonable accommodation request and needs to be acted upon immediately. Any forms used by the agency for a reasonable accommodation request must be made available in alternative formats that are accessible to individuals with disabilities.

4.2. REASONABLE ACCOMMODATION EXAMPLES. The following are examples provided by the EEOC and may help employees and managers recognize when a request may be a reasonable accommodation request:

a. An employee tells his supervisor he is having trouble focusing and completing his tasks in the early mornings because of the medication he is taking at night. This should be treated as a possible request for a reasonable accommodation regardless of the employee’s performance.

b. A cashier easily becomes fatigued because of lupus, and as a result, has difficulty making it through her shift. The employee requests a stool because sitting greatly reduces the fatigue. This accommodation is reasonable because it is a common-sense solution to remove a workplace barrier of being required to stand when the job can be effectively performed while sitting down. This “reasonable” accommodation is effective because it addresses the employee’s fatigue and enables her to do her job.

c. A cleaning company rotates its staff to different floors on a monthly basis. One crew member has a psychiatric disability. While his mental illness does not affect his ability to perform the various cleaning functions, it does make it difficult to adjust to alterations in his daily routine. The employee has had significant difficulty adjusting to the monthly changes in floor assignments. The employee asks for a reasonable accommodation and proposes staying on

the same floor permanently; staying on the same floor for two months, and then rotating, or allowing a transition period to adjust to a change in floor assignments. These accommodations are reasonable because they appear to be feasible solutions to this employee's problems dealing with changes to his routine. They also appear to be effective because they would enable him to perform his cleaning duties.

d. An employee tells their supervisor that they would like a new chair because the chair they have is uncomfortable. Although this is a request for a change, their statement is insufficient to put the employer on notice that they are requesting reasonable accommodation. The employee does not link the need for the new chair with a medical condition.

4.3. FORMAT OF REASONABLE ACCOMMODATION REQUESTS. Verbal or written requests for accommodation must be processed by the requestor's first-line supervisor within 30 calendar days from the date requested, unless there are extenuating circumstances. Verbal requests for accommodation may be followed up in writing by completing the DeCA Form 55-2, "Confirmation of Disability Accommodation Request." If an employee or applicant for employment chooses not to complete the DeCA Form 55-2, supervisors/managers or HR specialists will prepare a memorandum for record (MFR) to document the request. A copy of the form or MFR must be provided to the employee or applicant. DeCA will begin processing all requests immediately upon receipt. The requester does not need to have a particular accommodation in mind before making a request. They may call, email, or visit their supervisor or manager (person having the authority to grant the request) using the contact information provided for their respective facility. Requests for accommodation may be made to any of the following:

- a. The employee's supervisor.
- b. A supervisor or manager in the employee's immediate chain of command.
- c. Any DeCA official or employee in connection with the application process.
- d. The Agency Disability Program Manager.
- e. The Agency Human Resources (HR) Specialist/Designee assigned to specific hiring action (applicant for employment).

4.4. REQUEST OUTSIDE CHAIN OF COMMAND. Requests for accommodation that fall outside the first-line supervisor's authority will be forwarded to his/her decision maker for approval within 5 calendar days of receiving the request. If the supervisor or manager receives a request for accommodation from an employee outside his/her chain of command and authority, the request must be forwarded to the Agency DPM within 3 calendar days of receiving the request. The DPM will forward the request to the appropriate decision maker within 3 calendar days of receiving the request.

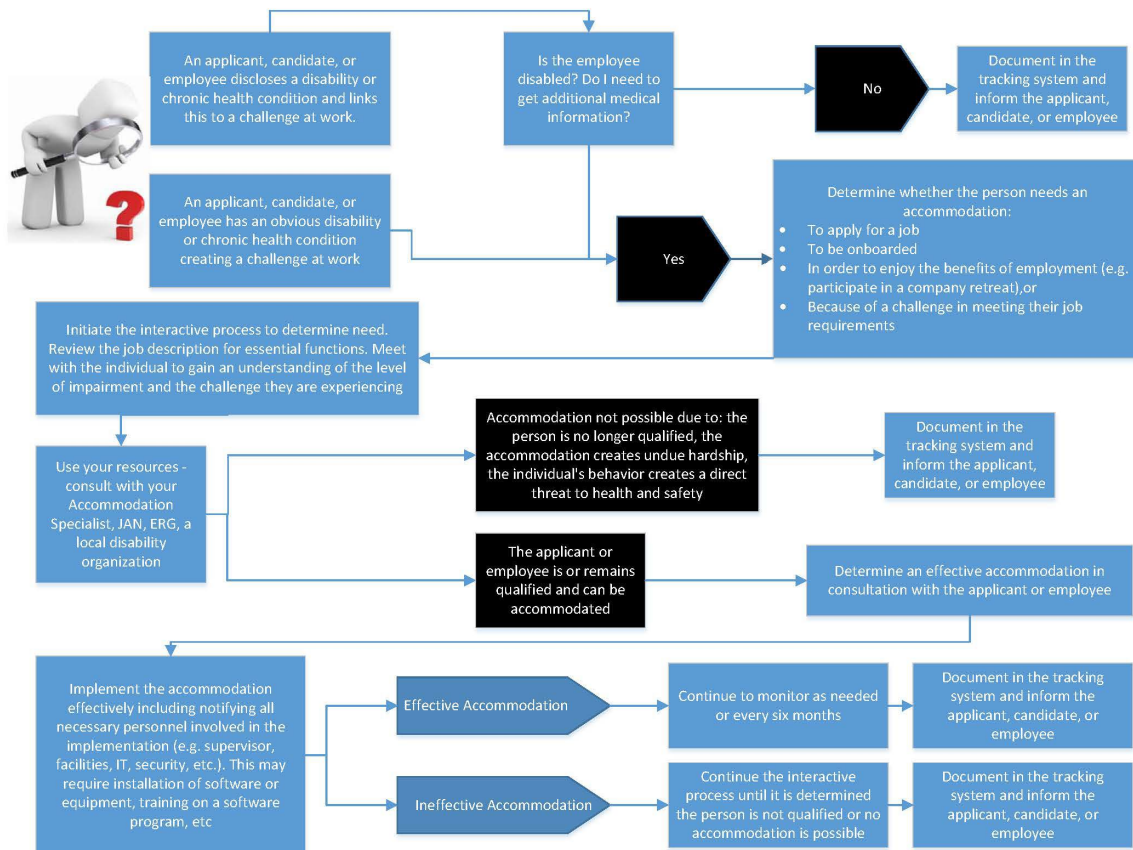
4.5. MULTIPLE REQUESTS FOR ACCOMMODATION. Once an employee has requested a type of reasonable accommodation that he/she is likely to need on a repeated basis (e.g., the assistance of a sign language interpreters or readers), the individual need not submit a written request for recordkeeping purposes each time the accommodation is needed.

4.6. SUBSEQUENT REQUESTS FOR REASONABLE ACCOMMODATION. An individual's receipt or denial of an accommodation does not prevent subsequent requests if circumstances change and he/she believes that an accommodation is needed due to limitations from a disability (e.g., the disability worsens or an employee is assigned new duties that require an additional or different reasonable accommodation). DeCA may not refuse to process, nor deny a request for accommodation, based on a belief that the accommodation should have been requested earlier (e.g., during the application process).

4.7. THIRD PARTY REQUESTS FOR REASONABLE ACCOMMODATION. A family member, health care professional, or other representative may request an accommodation from the agency on behalf of the employee. A family member, health care professional, or other representative may request an accommodation on behalf of an applicant from any office in connection with the application process or any DeCA employee with whom an applicant has contact or any other individual designated by the agency.

Table 1

FLOWCHART OF THE REASONABLE ACCOMMODATION INTERACTIVE PROCESS. The following chart shows the main steps in the process.



If the employee cannot be accommodated in the current position consult with DPM and HR on reassignment/change to lower grade.

SECTION 5: TIME LIMITS AND PROCEDURES FOR PROCESSING REQUESTS

5.1. TIME LIMITS FOR PROCESSING REQUESTS.

a. Time Limits for Processing Requests. The time limit for providing and/or denying an accommodation starts as soon as the accommodation is first requested. DeCA will process requests for accommodation and provide reasonable accommodation in as short a time frame as practicable. However, the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information. The DPM should contact the requesting individual to acknowledge the receipt of the request as soon as practicable and generally within 5 business days. If the request is made to someone other than the DPM, such as HR personnel, the EEO director, or a supervisor, that individual must forward the request to the DeCA DPM. The DPM must have a designated back-up to receive and process requests for accommodation when they are not available. The EEO director should ensure that management officials know who has been designated as back up.

b. Expedited Request: In certain circumstances, a request for accommodation must be processed in an expedited manner. Therefore, the DPM must move as quickly as practicable to, if appropriate, provide a reasonable accommodation. Expedited processing may be necessary where the accommodation is needed to enable an individual to apply for a job or for a specific DeCA activity (i.e., meeting or training) scheduled to occur shortly.

c. Thirty Business Days. If an accommodation can be processed without supporting medical information and there are no extenuating circumstances, the DPM will either provide a requested accommodation or deny the request, within the 30-business-day timeframe from the date the accommodation is first requested. The full 30 business days may be needed to engage in the interactive process and collect all relevant information about possible accommodations. There should be no delay beginning this process. Where an accommodation can be provided in less than the maximum time limits, failure to provide an accommodation in a prompt manner may result in a violation of the Rehabilitation Act.

d. Thirty Business Days Plus Time for Medical Documentation. When medical information is needed to determine whether the requestor has a disability, the limitations of that disability, or to determine what reasonable accommodations may be effective, the DPM will provide the requestor an authorization form and an inquiry form as soon as practicable and generally before the expiration of the 30 days. The requestor should make every effort to ensure that the medical documentation is received by the DPM within 14 business days from requestor's receipt of the request for documentation. In the event the DPM must request medical information or documentation from a requestor's health care provider, the time limits will stop on the day that the DPM makes a request to the individual to obtain medical information or sends out a request for information or documentation. The RA time limits will resume on the day the information or documentation is received by the DPM. DeCA will not be expected to adhere to its usual time

frames if an individual's health professional fails to provide needed documentation in a timely manner.

5.2. EXTENUATING CIRCUMSTANCES. Extenuating circumstances – these are circumstances that could not reasonably have been anticipated or avoided in advance of the request for accommodation, or that are beyond DeCA's ability to control. When extenuating circumstances are present, the time for processing a request for an accommodation and providing the accommodation will be extended as reasonably necessary. Extensions will be limited to circumstances where they are absolutely necessary and only for as long as required to deal with the extenuating circumstance. The DPM must notify the individual regarding the reason for the delay within 3 business days, and the approximate date on which a decision or provision of the reasonable accommodation is expected. Any further developments or changes must be communicated promptly to the individual.

5.3. INTERIM ACCOMMODATIONS.

a. Interim accommodations may be provided in certain circumstances. When all the facts and circumstances are known to the agency that it is reasonably likely that an individual will be entitled to a reasonable accommodation, but the accommodation cannot be provided immediately, the agency shall provide an interim accommodation. An interim accommodation allows the individual to perform some or all of the essential functions of his/her job, if it is possible to do so without imposing undue hardship on the agency.

b. When there is a delay in providing an accommodation that has been approved, the DPM will determine whether interim accommodations can be taken to assist the employee. These measures could include providing a reasonable accommodation on a temporary basis or temporarily providing a less effective form of reasonable accommodation. For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the DPM might arrange for readers. The temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives. Additionally, when there is a delay, and in consultation with OGC, the DPM may provide measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an essential function) if:

(1) The measures do not interfere with the operations of the employee's organization;
and

(2) The employee is clearly informed in writing that they are being provided the measure(s) on a temporary, interim basis.

c. Additionally, when delays are attributable to the need to obtain or evaluate medical documentation, and DeCA has not yet determined the individual is entitled to an accommodation, DeCA may provide an interim accommodation on a temporary basis. In such case, the DPM will notify the individual in writing that the accommodation is being provided on

a temporary basis pending a decision on the accommodation request. The EEOC guidance states an agency may not extend timeframes to evaluate medical documentation.

5.4. INTERACTIVE PROCESS.

a. Managers, supervisors, and HR personnel are responsible for engaging in an interactive process with each employee/applicant who has requested an accommodation in order to assess their medically-related limitations and possible accommodations for those limitations. There is no need for individuals to complete any specific form prior to beginning this process. This responsibility continues after the accommodation has been granted to determine whether the provided accommodation is effective and reasonable.

b. Face-to-face communication is highly recommended, but is not required in all situations, as long as there is candid two-way communication and the process is working to address the employee's/applicant's concerns. EEO and the OGC are available to advise and assist when needed.

5.5. OBVIOUS DISABILITIES.

a. If the disability is obvious or already known to the supervisor, or if it is clear why a reasonable accommodation is needed, then the supervisor may not require the full 30 calendar days to process the request. The following are examples of obvious and non-obvious disabilities:

(1) An employee brings a note from her treating physician explaining that she has diabetes and that, as a result, she must test her blood sugar several times a day to ensure that her insulin level is safe in order to avoid a hyperglycemic reaction. The note explains that a hyperglycemic reaction can include extreme thirst, heavy breathing, drowsiness, flushed skin, and eventually would result in unconsciousness. Depending on the results of the blood test, the employee might have to take insulin. The note requests that the employee be allowed three or four 10-minute breaks each day to test her blood, and if necessary, to take insulin. The doctor's note constitutes sufficient documentation that the person has an ADA disability because it describes a substantially limiting impairment and the reasonable accommodation needed as a result. The employer cannot ask for additional documentation.

(2) One year ago, an employer learned that an employee had bipolar disorder after he requested a reasonable accommodation. The documentation provided at that time from the employee's psychiatrist indicated that this was a permanent condition which would always involve periods in which the disability would remit and then intensify. The psychiatrist's letter explained that during periods when the condition flared up, the person's manic moods or depressive episodes could be severe enough to create serious problems for the individual in caring for himself or working, and that medication controlled the frequency and severity of these episodes. One year later, the employee again requests a reasonable accommodation related to his

bipolar disorder. Under these facts, the employer may ask for reasonable documentation on the need for the accommodation (if the need is not obvious), but it cannot ask for documentation that the person has an ADA disability. The medical information provided one year ago established the existence of a long-term impairment that substantially limits a major life activity.

(3) An employee gives her employer a letter from her doctor, stating that the employee has asthma and needs the employer to provide her with an air filter. This letter contains insufficient information as to whether the asthma is an ADA disability because it does not provide any information as to its severity (i.e., whether it substantially limits a major life activity). Furthermore, the letter does not identify precisely what problem exists in the workplace that requires an air filter or any other reasonable accommodation. Therefore, the employer can request additional documentation.

5.6. GRANTING A DISABILITY REASONABLE ACCOMMODATION REQUEST.

a. If it is determined that a disability reasonable accommodation will be granted, the decision must be communicated to the requestor no later than (NLT) 5 business days after the decision is made. The DPM will assist the decision maker with preparation of a decision memo. Whenever possible, accommodations are to be provided to the employee NLT 30 business days from the date of the request or at the earliest practical date prior to deadline. Requests that require review of medical documentation or involve other extenuating circumstances may take longer. If extenuating circumstances exist, every effort must be made so that processing time does not extend beyond 30 business days.

b. Follow these steps to grant a disability reasonable accommodation request:

(1) The supervisor/approving official will submit copies of all forms and information, including medical information received during the request process, to the DPM within 14 business days of the decision. The DPM will enter the RA request into DeCA's Accommodation Tracking System (ATS) within 5 business days of receipt of the request. The DPM will maintain the records in a separate and secure file during the employee's tenure with DeCA and retain in accordance with the timeline prescribed in DeCA Directive (DeCAD) 5-2, Records Management Program.

(2) In the event the accommodation cannot be provided immediately, the supervisor/approving official must inform the individual, in writing, of the projected time frame for providing the approved accommodation. The supervisor/decision maker will consult with the DPM prior to approving accommodation requests to assist in arranging for the use of agency resources, including fiscal resources. The supervisor/decision maker is responsible for working with her or his points of contact in Resource Management for funds and Acquisition Management for advice on procurement.

5.7. TEMPORARY ACCOMMODATIONS a. The supervisor/decision maker must determine whether temporary measures can be taken to assist the employee while the RA request is being reviewed. This may include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation.

b. The DPM or the supervisor/decision maker is responsible for assuring a temporary accommodation does not take the place of a permanent accommodation and all necessary steps to secure the permanent accommodation are being taken.

5.8. SIGN LANGUAGE INTERPRETORS. When utilizing sign language interpreters, an employee who knows sign language or who is taking a sign language class, is not an acceptable substitute for a contract interpreter. Virtual or video interpreting services may be a cost-effective solution in many situations.

5.9. REASSIGNMENT. Reassignment is movement of the employee to a vacant position at the same or lower grade than the employee occupies at the time of the request. The employee must be qualified for the position for which he/she is seeking reassignment. Reassignment is a “last resort” accommodation that must be considered if no other accommodations are available to enable the individual to perform his/her current job, or if the only effective accommodation would cause undue hardship. However, if both the employer and the employee voluntarily agree that transfer is preferable to remaining in the current position with some form of reasonable accommodation, then the employer may transfer the employee.

a. Providing the employee an opportunity to compete for a position is not a reassignment. DeCA will consider providing reassignment to a vacant position as a reasonable accommodation, when it determines that no other reasonable accommodation will permit an employee with a disability to perform the essential functions of his/her current position. Steps for considering reassignment are:

(1) The DPM, supervisor, HR designee (if applicable), and the requestor will work together to identify all vacant positions within DeCA for which the employee is qualified, with or without a reasonable accommodation. The requestor is responsible for providing a current resume and a list of geographic locations in which she or he is willing to work. This will include all positions which the HR designee has reason to believe will become vacant over the next 30 calendar days and for which the employee is qualified; and may include positions outside the employee’s commuting area, if the employee is willing to relocate. DeCA is not obligated to pay for relocation fees of any kind.

(2) DeCA will first focus on positions equivalent to the employee’s current job in terms of pay, status, and other relevant factors. If there is no equivalent vacant position, DeCA will consider vacant lower level positions for which the employee is qualified. If an employee accepts a lower-graded position, the servicing HR office must determine whether provisions of Department of Defense Instruction 1400.25, Volume 536, “Grade and Pay Retention,” apply.

b. The law does not require that agencies create new positions or move associates from their jobs in order to create a vacancy. There is no obligation for DeCA to assist the employee to become qualified. Reassignment is available only to employees, not applicants.

5.10. DENIAL OF A REQUEST FOR DISABILITY REASONABLE

ACCOMMODATION. Only a supervisor/decision maker has the authority to deny a request for RA. If the decision maker is considering denying a request, she/he must request a legal review by OGC. If, after OGC has completed its review, the agency denies the request for an accommodation, the DPM will assist the decision maker with preparation of a written notice to the job applicant or employee. The notice will explain the reason the agency denied the request. 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. The explanation for the denial should be written in plain language, clearly stating the reasons for the denial. As appropriate, the denial will explain:

- a. Whether the agency considered the requestor a qualified individual with a disability.
- b. The reason(s) the requested accommodation would not be effective.
- c. The reason(s) that providing the accommodation would result in undue hardship.
- d. Medical documentation is inadequate to establish that the individual has a disability or needs a reasonable accommodation.
- e. Requested reasonable accommodation would require the removal of an essential function.
- f. The requested accommodation would require the lowering of a performance of production standard.

5.11. INFORMAL DISPUTE RESOLUTION AND EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS.

a. Individuals dissatisfied with the agency's decision to deny an accommodation are encouraged to participate in the use of voluntary informal dispute resolution processes. An informal dispute resolution process is a voluntary mechanism through which an employee can request reconsideration of a denial of reasonable accommodation, regardless of whether the person has started the EEO complaint process. An informal dispute resolution process begins when an employee asks the decision maker to reconsider his or her decision. Employees may also request reconsideration of the denial from officials higher in the decision maker's chain of command.

b. An individual whose request for accommodation has been denied may file an EEO complaint. The informal dispute resolution process does not affect the time limits governing the EEO complaint process. When a request for reasonable accommodation is denied, the individual wishing to pursue the EEO complaint process must do so within 45 days of the denial, even if he/she has already requested participation in informal dispute resolution.

5.12. PROCEDURES RELEVANT TO STATUTORY AND COLLECTIVE BARGAINING CLAIMS.

a. Informal dispute resolution procedures do not satisfy the requirements of or stop the time limits for requesting EEO counseling/filing a formal complaint of discrimination or bringing a formal claim under union grievance procedures before the Merit Systems Protection Board. The requirements governing the initiation of these claims remain unchanged, including the time frames for filing such claims.

b. Written denials will include any internal appeal rights or informal dispute resolution processes available and associated time limits. In addition, the written denial will explain that employees or applicants for employment whose accommodation requests have been denied have the right to file a discrimination complaint, pursuant to 29 C.F.R. 1614.106, “Federal Sector Equal Employment Opportunity Complaint Processing Regulations,” which includes instructions on how to file an EEO complaint, and explains that the individual must initiate contact with the EEO staff within 45 days of the denial, regardless of whether the individual participates in an informal dispute resolution process.

c. An individual who chooses to pursue a statutory remedy for denial of reasonable accommodation must:

(1) For an EEO compliant request EEO counseling within 45 calendar days from the date of receipt of the written notice of denial. The procedures for filing an EEO complaint can be found on the EEO poster located in each agency facility and on the DeCA webpage, www.commissaries.com/EEO.

(2) For a collective bargaining claim, covered employees may file a written grievance in accordance with the provisions of the applicable Collective Bargaining Agreement.

SECTION 6: MEDICAL INFORMATION

6.1. AGENCY REQUEST FOR MEDICAL INFORMATION.

a. When applicants or employees make requests for reasonable accommodation, DeCA is entitled to know that the individual has a disability that requires an accommodation. When medical documentation is required, the DPM will request information on behalf of the decision maker that is sufficient to substantiate the applicant or employee has a disability that requires an accommodation and that the accommodation requested is effective. The medical information should describe the nature of the employee's disability, his/her need for reasonable accommodation, and how the requested accommodation, if any, will assist the employee/applicant to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace. Conversely, when both the disability and the need for accommodation are obvious or the individual has provided the agency with sufficient information to document the existence of a disability and his/her functional limitations, the agency will not request medical information. It is the responsibility of the applicant/employee to provide appropriate medical information as requested by the agency. The agency will only request medical information that is relevant to deciding about the requested accommodation.

b. Once medical information is received, the DPM will have up to 5 calendar days to review the documentation and provide a determination of disability letter, indicating the employee/applicant is a person with a disability or not, or provide an updated medical information letter if the employee already has a determination of disability letter or has an obvious disability but needs to provide medical information for a specific need (e.g., travel needs). As appropriate, the DPM will request guidance from OGC before informing the decision maker that a requestor is not disabled.

c. All medical information will be retained by the DPM. The confidentiality of medical information is maintained in accordance with HIPAA guidelines. DeCA has the right to request relevant supplemental medical information, in the event the first medical submission is insufficient.

6.2. EXAMINATION BY AN AGENCY PHYSICIAN. The agency does not employ nor does it have the ability to provide services from an agency physician.

6.3. GENETIC INFORMATION NON-DISCRIMINATION ACT (GINA) OF 2008.

a. Pursuant to 29 C.F.R. §1635.8(b)(i)(B), GINA prohibits employers and other entities covered by Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law.

b. To comply with this law, employees and applicants for employment are asked not to provide any genetic information when responding to requests for medical information. “GINA,” includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, genetic information of a fetus carried by an individual or individual’s family member, or an embryo lawfully held by an individual or an individual’s family member receiving assistive reproductive services.

SECTION 7: CONFIDENTIALITY REQUIREMENTS

7.1. CONFIDENTIALITY REQUIREMENTS.

a. Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential. All medical information obtained in connection with a request must be maintained in files separate from the individual's official personnel folder (OPF) or supervisory folder. Failure to keep medical information confidential can be a violation of the Rehabilitation Act, regardless of whether the agency is required to grant a reasonable accommodation.

b. The DPM will maintain custody of all records obtained or created during the processing of an accommodation, including medical records, and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act, Health Insurance Portability & Accountability Act (HIPAA), the requirements of 29 C.F.R. 1611, "Privacy Act Regulations," and the Rehabilitation Act's requirement to keep medical information confidential.

c. Medical information may be disclosed only, as follows:

(1) Supervisors, facility managers, agency officials, who need to know may be informed about necessary restrictions on the work or duties of the employee and about the essential accommodation(s); however, medical information is to be disclosed strictly as needed.

(2) First aid and safety associates may be informed, when appropriate, if the disability might require emergency treatment or assistance in the event an agency evacuation is prevalent.

(3) Government officials, to include EEO investigators, may be given information necessary to investigate the agency's compliance with the Rehabilitation Act.

(4) In certain circumstances, information may be disclosed to worker's compensation offices or insurance carriers.

d. Where medical information is disclosed to any of the foregoing officials, the DPM will inform those individuals about the confidentiality requirements that are attached to the information. (See EEOC Policy Guidance on Executive Order 13164, Q. 20.)

SECTION 8: PERSONAL ASSISTANCE SERVICES (PAS)

8.1. PERSONAL ASSISTANCE SERVICES.

a. For many individuals with targeted disabilities, personal assistance services help make employment possible. People with significant disabilities use PAS in the workplace on a day-to-day basis to do those things that allow them to be at work, but without PAS, they could not. Examples of workplace PAS vary, but may involve activities such as retrieving materials out of reach, putting on or removing outerwear, assistance with eating, assistance using the restroom, job-related travel, services during telework, etc. PAS is not required to be provided for commuting to and from work or for medical services, such as providing shots or prescribing medication.

b. DeCA must provide personal assistance services during work- and job-related travel for eligible employees. To be eligible, the individual must have a targeted disability and the assistance must be tied to their type of disability. Once the PAS has been provided, the employee must be able to safely perform the essential functions of the job without posing a direct threat to safety. Finally, DeCA will provide the PAS as long as it does not pose an undue hardship on the organization

8.2. TYPES OF PERSONAL ASSISTANCE ACCOMMODATIONS. Two types of personal assistance are identified and annotated below:

a. Personal services accommodations are job-related services which enable individuals with disabilities to apply for the job; perform job functions; or enjoy benefits and privileges of the job, e.g., notetaking, typing or filing.

b. Personal assistance services enable individuals with targeted disabilities to participate/be in the workplace, e.g., assistance with eating or putting on and taking off outerwear.

8.3. REQUESTING PERSONAL ASSISTANCE SERVICES.

a. We have flexibility in locating PAS for our employees. DeCA can choose to work with a PAS provider, assign a current employee to perform these tasks as their primary job, or hire a full-time employee or contractor to provide the services.

b. Employees will request PAS using the current Disability Reasonable Accommodation request procedure outlined in the preceding chapters.

SECTION 9: REASONABLE ACCOMMODATION RESOURCES

9.1. REASONABLE ACCOMMODATION RESOURCES.

a. Equal Employment Opportunity Commission - <https://www.EEOC.gov/>

(1) EEOC is responsible for enforcing federal laws that make it illegal to discriminate against an applicant for employment or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability (mental or physical), or GINA, as well as for requiring a reasonable accommodation.

(2) The EEOC provides guidance to federal agencies and individuals on all aspects of the federal government's equal employment opportunity programs including reasonable accommodation.

(3) Specific resources regarding reasonable accommodation are found at: Disability Discrimination (<https://www.EEOC.gov/disability-discrimination>); and Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA (<https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-andundue-hardship-under-ada>).

b. Computer/Electronic Accommodation Program (CAP) - www.cap.mil

(1) CAP was established in 1990 as a centrally funded program to provide accommodations to employees of the DoD. CAP's mission is to ensure that people with disabilities and wounded Service members have equal access to the information environment and opportunities in the DoD and throughout the Federal government.

(2) CAP provides assistive technology and accommodations to ensure people with disabilities have equal access to the information environment and opportunities in the DoD and throughout the Federal government; provides needs assessments, assistive technology, and support services free of charge to Federal employees with disabilities and wounded Service members; and supports employees throughout the employment lifecycle, including recruitment, placement, promotion, and retention.

c. Job Accommodation Network (JAN) - <https://askjan.org>. JAN is the leading source of free, expert, and confidential guidance on workplace accommodations and disability employment issues and is funded by a contract from the U.S. Department of Labor, Office of Disability Employment Policy. JAN helps people with disabilities enhance their employability, and shows employers how to capitalize on the value and talent that people with disabilities add to the workplace. Assistance is available both over the phone and on line.

GLOSSARY

G.1. ACRONYMS.

ADA	Americans with Disability Act
AO	Agency Official
ATS	Accommodation Tracking System
CAP	Computer/Electronic Accommodation Program
CFR	Code of Federal Regulations
DeCA	Defense Commissary Agency
DeCAD	Defense Commissary Agency Directive
DeCAM	Defense Commissary Agency Manual
DM	Decision maker
DoD	Department of Defense
DPM	Disability Program Manager
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
GC	General Counsel
GINA	Genetic Information Non-Discrimination Act
HIPAA	Health Insurance Portability and Accountability Act
HR	Human Resource
IT	Information Technology
IWD	Individual with Disability
JAN	Job Accommodation Network
MFR	Memorandum for Record
MSPB	Merit Systems Protection Board
NLT	No later than
OGC	Office of General Counsel
OPF	Official Personnel Folder
PAS	Personal Assistance Services
RA	Reasonable Accommodation

G.2. DEFINITIONS.

Agency Official. An agency employee who manages a process or staff that may need to be involved or made aware of a reasonable accommodation request because they need to help implement the accommodation. Examples of an agency official for this purpose may include the hiring official for a job applicant, an employee's supervisor, the disability program manager, human resources staff, general counsel staff, information technology staff, facilities staff, or other persons who would be in charge of a process (e.g., interpreter services, travel, etc.) that an applicant or employee might contact regarding a need for reasonable accommodation request.

Applicant. An individual who has applied for a current employment opportunity with the agency.

Decision maker. The person who makes the decision and implements the reasonable accommodation request. In most cases, the employee's immediate supervisor or a second-level supervisor (in some cases) in the supervisory chain is the decision maker.

Disability. To be eligible for a reasonable accommodation, an individual must either have a physical or mental impairment that substantially limits a major life activity or bodily function, or must have a record (a history) of a physical or mental impairment that substantially limits a major life activity or bodily function.

Disability Program Manager. Designated to oversee the activity's reasonable accommodation process. The DPM is a resource for IWDs and activity decisionmakers.

Employee. An individual who has completed the entrance on duty process through Human Resources.

Essential Functions. Job duties that are so fundamental to the position of record to which an employee is assigned; or, in the case of an applicant, the position applied for that the job cannot be accomplished without being able to perform them. A function can be "essential" if, among other things, the position exists specifically to perform that function; there are a limited number of other employees who could perform the function(s) if assigned to them; or the function is specialized and the individual is hired based on his/her ability to perform it.

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

First-line Supervisor. For the purpose of this document is referred to the employee's immediate supervisor. In most cases this person will be the decision maker who makes decisions and implements the reasonable accommodation requests for employees. In the case of applicants for employment, the supervisor/decision maker will be the selecting official, an agency official in the selecting official's chain of command, or HR personnel assigned to process the vacancy.

Individual with a Disability. An individual who has a physical or mental impairment that substantially limits one or more major life activities; a record of a physical or mental impairment that substantially limited a major activity; or a person that is regarded as having such an impairment.

Interactive Process. An informal process to clarify what the individual needs and identify the appropriate reasonable accommodation. The employer may ask, during the interactive process relevant questions that will enable them to make an informed decision about the request. This includes asking what type of reasonable accommodation is needed and may also involve obtaining relevant information from a supervisor as well as an individual's health care provider. This process begins upon receipt of an oral or written request for reasonable accommodation.

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

Personal Assistance Services. Defined as aiding with performing activities of daily living that an individual would typically perform if they did not have a disability, and that is not otherwise required as a reasonable accommodation, including, for example, assistance with removing and putting on clothing, eating, and using the restroom. (See 29 C.F.R. 1614.203 (a)(5)).

Qualified Individual with a Disability. Qualified if they satisfy the requisite skill, experience, education, and other job-related requirements of the position; and they can perform the essential functions of the position, with or without reasonable accommodation.

Reasonable Accommodation. Any change in the work environment or in the way things are customarily done that provides an equal employment opportunity to an individual with a disability. Detailed information about RA and the interactive process is provided in this manual.

REFERENCES

- DeCAD 5-2, "Records Management Program," August 26, 2007
- DeCAD 55-03, "Procedures for Providing Reasonable Accommodation for Individuals with Disabilities and Personal Assistance Services," January 31, 2023
- DODD 5105.55, "Defense Commissary Agency," March 12, 2008
- DoDI 1400.25, Volume 536, "DoD Civilian Personnel Management System: Grade and Pay Retention," March 30, 2020
- Executive Order 13164, "Establishing Procedures to Facilitate the Provision of Reasonable Accommodation," October 20, 2000
- Genetic Information Non-Discrimination Act of 2008, May 21, 2008
- Rehabilitation Act of 1973, Section 501, "Federal Employment," September 26, 1973
- United States Code, Title 42, Chapter 126, "Americans with Disabilities Act of 1990," January 1, 2009
- 29 C.F.R. 1611, "Privacy Act Regulations," February 8, 1977
- 29 CFR 1614.106, "Individual Complaints," July 8, 2022
- 29 C.F.R. 1614.203, "Rehabilitation Act," July 1, 2019
- 29 C.F.R. 1635.8, "Acquisition of Genetic Information," July 18, 2016