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NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees, Affiliated with the AFL-CIO

NATIONAL GRIEVANCE

NG-2/3/25

Date: February 3, 2025

To: Denise Biaggi-Ayer
Executive Director
Office of Labor Management Relations
U.S. Department of Veterans Affairs
Denise.Biaggi-Ayer@va.gov
Sent via electronic mail only

From: Sarah Hasan, Staff Counsel, National Veterans Affairs Council (#53) ("NVAC"),
American Federation of Government Employees, AFL-CIO ("AFGE")

RE: National Grievance against the Department of Veterans Affairs for Failing to Engage in the Interactive Process and Summarily Delaying Employees' Requests for Reasonable Accommodation to Telework

STATEMENT OF THE CHARGE

Pursuant to the provisions of Article 43, Section 11 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (2023) ("MCBA"), American Federation of Government Employees/National Veterans Affairs Council ("NVAC" or "the Union") is filing this National Grievance against you and all other associated officials and/or individuals acting as agents on behalf of the Department of Veterans Affairs ("Department") for failing to engage in the interactive process and summarily delaying Bargaining Unit Employees' ("BUEs") requests for reasonable accommodations to telework. To date, the Department has failed to remedy these violations, and as such, continues to violate the Master Agreement, VA policy, and federal law.

Specifically, the Department violated Articles 2, 3, 17, 18, 30, 47, and 49 of the MCBA; 5 U.S.C. §7116(a) (the "Statute"); 42 U.S.C. §12112 ("Americans with Disabilities Act" or "ADA"); 29 U.S.C. §701 et. seq. (the "Rehabilitation Act"), 29 C.F.R. §1630.2 (Regulations to implement portions of the ADA), 29 C.F.R. §1614.203 (Regulations to implement the Rehabilitation Act), VA Handbook 5975.1 ("Processing Requests for Reasonable Accommodation" or "Handbook"); and any and all other relevant articles, laws regulations, and past practices not herein specified. The Union specifically reserves the right to supplement this grievance based upon the discovery of new evidence or information of which it is not presently aware, or otherwise, as necessary.

STATEMENT OF THE CASE

Background

On January 20, 2025, President Trump signed a Presidential Memorandum (hereinafter “Presidential Memorandum” or “PM”) directing:

Heads of all departments and agencies in the executive branch of Government shall, as soon as practicable, take all necessary steps to terminate remote work arrangements and require employees to return to work in-person at their respective duty stations on a full-time basis, provided that the department and **agency heads shall make exemptions they deem necessary.**

This memorandum **shall be implemented consistent with applicable law.**

(emphasis added).¹

Thereafter, on January 22, 2025 and again on January 27, 2025,^{2,3} the Office of Personnel Management issued guidance to heads of agencies regarding the Presidential Memorandum, generally advising, *inter alia*, that agencies should revise their telework policies, develop timelines and steps to return all eligible employees to in-person work to fully implement the PM, and “describe agency’s process for determining exceptions based on disability, qualifying medical condition, and or other compelling reason.”⁴ Agencies were further directed to describe the steps the agency would take to bring any collective bargaining agreements (“CBA”) into compliance with the PM, “consistent with applicable law.”⁵

Nevertheless, on February 3, 2025, Lou Demian, Human Resources (“HR”) Specialist in Veterans Service Integrated Network (“VISN”) 3, emailed BUEs and AFGE Local 2028 to inform them that the Department would place on hold all Reasonable Accommodation (“RA”) requests to telework, both new and pending. *See* Exhibit 1. Those requests would not be processed until “further guidance was issued. *Id.* The Department would continue to process RA requests unrelated to telework, however. *Id.* This email only contains a representative sample of the facilities affected by the violations described herein. The Union reserves the right to supplement this list of affected Locals.

Obligations Regarding Request for Reasonable Accommodations

Law, regulation, policy, and contract permit employees to seek telework as an RA. Under the ADA and Rehabilitation Act, employees are entitled to reasonable accommodations to allow

¹ See “Return to In-Person Work,” dated January 20, 2025 (available at: <https://www.whitehouse.gov/presidential-actions/2025/01/return-to-in-person-work/>) (last accessed February 3, 2025).

² See OPM Memorandum dated January 22, 2025 (available at: <https://www.opm.gov/media/5beb4e5g/guidance-on-presidential-memorandum-return-to-in-person-work-1-22-2025-final.pdf>) (last accessed February 3, 2025).

³ See OPM Memorandum dated January 27, 2025 (available at: <https://www.opm.gov/media/zx3mbdk2/joint-omb-opm-memorandum-re-return-to-office-implementation-plans-1-27-2025-final.pdf>) (last accessed February 3, 2025).

⁴ *Id.*

⁵ *Id.*

them to continue to perform the essential functions of their positions. *See* 42 U.S.C. §12102; 29 C.F.R. §1630.2; 29 C.F.R. §1614.203.

In the federal regulations to implement portions of the ADA, agencies “should engage in an informal and flexible interactive process to identify the precise limitations of the individual and what accommodations could overcome those limitations.” 29 C.F.R. §1630.2 (o)(3).

VA Handbook 5975.1 (“Handbook”) defines the “interactive process” as follows:

Communication among the requestor, the DMO and the RAC, is a priority throughout the entire process. Extensive discussions are not necessary in cases where the disability, the need for accommodation and the type of RA to be provided are obvious. However, if the need for an accommodation is not immediately obvious or if there are several options for providing accommodations; the employee, the supervisor and the RAC will enter an interactive process through which they will strive to arrive at an effective RA.

See Exhibit 2, p. 32-33.

The Handbook further acknowledges, “The failure to respond promptly to a request for RA, or an unnecessary delay when implementing a RA, may result in a violation of the Rehabilitation Act of 1973.” *Id.* at p. 30. It also recognizes that a “denial also includes unilaterally removing an existing accommodation from an employee without engaging in the interactive process.” *Id.* at p. 38.

The EEOC requires agencies to respond “expeditiously” to requests for reasonable accommodation. *See Villanueva v. Department of Homeland Security*, EEOC No. 01A34968 (2006). An agency’s unreasonable delay in processing RA requests can result in liability. *See Rabby v. Department of State*, EEOC No. 0120071659 (2008). Here, the Department has guidance with which to process RA requests, namely VA Handbook 5975.1. The Department’s decision to categorically pause the processing of RA requests relating to telework only is unreasonable, unsupported by any law, regulation, or policy, and results in causing unnecessary and avoidable delay in the proper processing of RA requests. Furthermore, the Department’s decision to pause only those RA requests related to telework has a chilling effect on BUEs insofar as their requests are being handled differently than other RA requests and suggest that their requests may not be approved. This delay has a particularly sinister and coercive effect on employees who have been misinformed of their rights and may feel compelled to decide whether to take the Department’s “deferred resignation” by February 6, 2025.

Unreasonable delay in processing an employee’s RA can be considered an unlawful denial of their request. *See Spence v. Nuclear Regulatory Commission*, EEOC No. 0120041082 (2007). This is especially the case where the requested accommodations are neither unduly complex nor burdensome. *See Yessenia H. v. Department of Veterans Affairs*, EEOC No. 0720070027 (2015). Employee requests for accommodation can only be denied after the deciding management official consults with the national reasonable accommodation coordinator or regional Office of General Counsel. *See* Exhibit 2, p. 38. Thereafter, employees may pursue one of many avenues to redress the denial of a reasonable accommodation request. *See* Exhibit 2, p. 41.

Failure to engage in the interactive process resulting in, or contributing to, a denial of an RA request constitutes disability discrimination. See e.g., *Black v. U.S. Postal Service*, EEOC No. 01A42589 (2006); *Alena C. v. Department of Veterans Affairs*, EEOC No. 2023001110 (2023); *Nia G. v. Department of Veterans Affairs*, EEOC No. 2023000711 (2024). Here, the Department's failure to further inquire about BUEs' needs for telework as an RA prior to pausing the processing of those requests is evidence of a systemic and categorial failure to engage in the interactive process. Any denials resulting from this pause in processing RA requests violates the law.

Additionally, the Department failed to notify and provide an opportunity to bargain to the Union regarding a negotiable issue concerning a change to the terms and conditions of work, namely how RA requests would be handled, and instead, unilaterally implemented a change to the RA process for employees seeking telework. In refusing to notify, consult, and negotiate in good faith with the Union prior to changing the accommodation process, the Agency committed an unfair labor practice under 5 U.S.C. §§7116(a)(1) and (a)(5). Further, the Agency violated Article 47, Section 2, which sets forth the Parties' responsibilities regarding mid-term bargaining at the national level, and Article 49 which requires the Department to provide reasonable, advance notice to the Union before changing conditions of employment.

Article 2 of the MCBA requires that the Agency comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA. Therefore, in violating 5 U.S.C. §7116, 42 U.S.C. §12112 ("ADA"), and 29 U.S.C. § 701 et seq (the "Rehabilitation Act"), the Agency also failed to comply with Article 2. Further, the Department violated Article 3 which encourages the parties to maintain a cooperative labor-management relationship based on mutual respect, open communication, consideration of each other's views, and minimizing collective bargaining disputes. The Department violated Articles 17 which entitles employees to be treated fairly and equitably and without regard to their disabilities. The Department violated Article 18 by failing to engage in the interactive process and summarily delaying the processing of RA requests from its employees. In committing these violations of contract, federal law, and Department-wide policy, the Agency renounced its commitments under Article 3 of the MCBA and necessitated further collective bargaining disputes.

Violations

By failing to fulfill its obligations, the Department violated and continues to violate, the following:

- Article 2 of the MCBA: requiring the Agency to comply with federal law and regulations;
- Article 3 of the MCBA: requiring the Agency to maintain an effective, cooperative labor-management relationship with the Union;
- Article 17 of the MCBA: requiring the Agency refrain from discriminating against employees due to their disabilities;
- Article 18 of the MCBA: requiring the Agency to provide reasonable accommodations to employees;

- Article 47 of the MCBA: requiring the Department to notify and bargain with the NVAC over proposed changes in personnel policies, practices, or working conditions affecting two or more local unions;
- Article 49 of the MCBA: requiring the Department to provide reasonable, advance notice and bargain with the Union prior to making changes in conditions of employment;
- 5 U.S.C. §§7116(a)(1) and (a)(5): requiring the Agency to consult and negotiate in good faith with the Union;
- The Americans with Disabilities Act and the Rehabilitation Act of 1973 (42 U.S.C. §12112; 29 U.S.C. § 701 et. seq.; 29 C.F.R. §1630.2; 29 C.F.R. §1614.203) requiring the Department to provide reasonable accommodations to employees with disabilities by engaging in the interactive process without arbitrary or unreasonable delay;
- VA Handbook 5975.1 requiring the Department to engage in the interactive process, offer reassignments as a last resort, and consult OGC on denials of reasonable accommodation requests; and
- Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

Remedies Requested

The Union asks that, to remedy the above situation, the Department agree to the following:

- Return to the *status quo ante* and immediately continue to process BUE request for telework as a RA consistent with existing law, regulations, policy and contract;
- Fully comply with its contractual obligations under Articles 2, 3, 17, 18,30, 47 and 49 of the MCBA; its statutory and regulatory obligations under 5 U.S.C. §7116(a), 42 U.S.C. §12112; 29 U.S.C. § 701 et. seq.; 29 C.F.R. §1630.2; 29 C.F.R. §1614.203; and its obligations to comply with policy under VA Handbook 5975.1;
- To make-whole any bargaining unit employee injured by the Agency's unlawful summary delay of RAs related to telework;
- To pay reasonable attorney's fees and litigation costs under 42 U.S.C. §2000e-16 and 42 U.S.C. §2000e-5;
- Distribute an electronic notice posting, signed by the Secretary, to all BUEs concerning the Agency's unfair labor practice in summarily delaying BUE requests for RA related to telework and by changing conditions of employment without first notifying and bargaining with the Union;
- Provide mandatory training to responsible management officials concerning the Reasonable Accommodation Process and associated obligations in the MCBA and VA policy;
- Agree to comply with any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.
- Agree to any and all other appropriate remedies in this matter.

Time Frame and Contact

This is a National Grievance, and the time frame for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions, please contact the undersigned at the AFGE Office of the General Counsel. The undersigned representative is designated to represent the Union in all matters related to the subject of this National Grievance.

Submitted by,



Sarah Hasan
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AFGE, AFL-CIO
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cc: Kurt Martin, Deputy Director, OLMR
Alma L. Lee, President, AFGE/NVAC
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Thomas Dargon, Jr., Deputy General Counsel, AFGE/NVAC

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From: Demian, Lou D. (WMC) <Lou.Demian@va.gov>

Sent: Monday, February 3, 2025 9:38 AM

To:

[REDACTED]

Subject: RA

Good morning,

We have received notification that all Reasonable Accommodation requests to Telework (new and pending) are to be placed on hold at this time until further notice. Once we receive additional guidance, we will proceed with these Telework related RA requests.

If you need an accommodation unrelated to telework, please let me know.

Respectfully,

Lou Demian

HR Specialist, Worklife Benefits SSU(RA)

Human Resources Operations Office, HROO (106A6)

Workforce Management and Consulting (106A)

Veterans Health Administration

US Department of Veterans Affairs

Office Phone: (216) 903-8265

HROO/WLB Reasonable Accommodation group: VHA106AWMCHROOWLBR@va.gov

Visit the [WMC HR Hub](#) for answers to common HR Questions.

How was my service today? We value your feedback – please click on the link to take [WMC Quick Card Survey](#).

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Week 1	Off	6:30a – 4:00p	6:30a – 4:00p	6:30a – 4:00p	6:30a – 4:00p
Week 2	6:30a – 4:00p	6:30a – 4:00p	6:30a – 4:00p	6:30a – 4:00p	6:30a – 3:00p

**PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION AND
PERSONAL ASSISTANCE SERVICES FOR EMPLOYEES AND APPLICANTS WITH
DISABILITIES**

- 1. REASON FOR ISSUE:** This handbook updates the Department of Veterans Affairs (VA) procedures on providing Reasonable Accommodations (RA) to employees or applicants with disabilities and Personal Assistance Services (PAS) in compliance with all applicable laws and regulations.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This policy includes multiple revisions based on the expanded legal requirements of the American with Disabilities Act Amendments Act (ADAAA) of 2008, regulations from the U.S. Equal Employment Opportunity Commission (EEOC), 29 Code of Federal Regulations (C.F.R.) § 1630, March 25, 2011, pages 16978 – 17017, the EEOC Final Rule which amends 29 C.F.R. § 1614.203 to clarify the affirmative action obligations addressed in Section 501 of the Rehabilitation Act of 1973. This handbook will be posted and made available to all VA employees and applicants in written and accessible formats on both the [VA Publications website](#) and the [Office of Resolution Management, Diversity and Inclusion \(ORMDI\)- Reasonable Accommodation Services Office](#). For additional accessible formats including all attachments please contact [ORMDI Reasonable Accommodations](#). Revisions include the following:
 - a. Adding appendices to explain role and responsibilities, processing and tracking of RA and PAS requests.
 - b. Revising several definitions for terms such as Chief of Reasonable Accommodations Services, Reasonable Accommodation Coordinator (RAC), Administration/Staff Office's National Reasonable Accommodation Consultant (NRAC), Reconsideration Official, Office of General Counsel (OGC), Personal Assistance Services, Fitness for Duty, Interim/Temporary Accommodations, Light Duty, Obvious Disability, Remote Employee, Virtual Employee and Telework.
 - c. Changing Local Reasonable Accommodation Coordinator to Reasonable Accommodation Coordinator (RAC).
 - d. Changing the name of the individual who manages the Departmental Reasonable Accommodation Program from NRAC to Chief of Reasonable Accommodation Services.
 - e. Designating the title of the National Administration and Staff Office RACs to NRACs.
 - f. Clarification of the processing procedures during various phases (i.e., waiting for medical documentation).
 - g. Requiring establishment of a budget line item for RA requests.

- h. Standardizing overall timeframes to a maximum of thirty (30) business days (except for reassignments and RA for applicants).
 - i. Updating procedures related to processing and tracking RA requests and funding.
 - j. Designating timelines, processes and tracking RA requests and funding.
3. **RESPONSIBLE OFFICE:** Office of Resolution Management, Diversity and Inclusion (08), Office of Human Resources and Administration/Operations, Security and Preparedness.
4. **RELATED HANDBOOK/DIRECTIVE:** VA Directive 5975, Diversity and Inclusion, March 29, 2013.
5. **RESCISSION:** VA Handbook 5975.1, Processing Requests for Reasonable Accommodation by Employees and Applicants with Disabilities dated November 27, 2013.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
Guy T. Kiyokawa
Assistant Secretary for
Enterprise Integration

/s/
Gina M. Grosso
Assistant Secretary for
Human Resources and Administration/
Operations, Security and Preparedness

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PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE SERVICES FROM EMPLOYEES AND APPLICANTS WITH DISABILITIES

- 1. PURPOSE AND SCOPE.** This handbook revises the Department of Veterans Affairs' (VA) policy on providing Reasonable Accommodations (RA) to employees and applicants with disabilities in compliance with the Americans with Disabilities Act of 1990 (ADA), ADA Amendments Act of 2008 (ADAAA), the Rehabilitation Act of 1973, and 29 C.F.R. Part 1614. Specifically, Section 203 addresses employment of individuals with disabilities. The policy clarifies providing personal assistance services. Appendix A of this handbook designates and clarifies roles and standardizes RA processing timelines.
- 2. DEPARTMENT OF VETERANS AFFAIRS POLICY ON REASONABLE ACCOMMODATIONS AND PERSONAL ASSISTANCE SERVICES.**
 - a. **Reasonable Accommodation.** In accordance with the Rehabilitation Act of 1973, as amended, the RA policy at VA is to provide RA for qualified individuals with disabilities who are VA employees or applicants for employment unless to do so would cause undue hardship on the operations of VA. VA is committed to providing RA to its employees and applicants for employment to assure that individuals with disabilities have full access to equal employment opportunities. The RA policy applies to:
 - (1) The application/hiring process: Provides equal opportunities for an individual with a disability to be considered for a position within VA.
 - (2) The performance of the essential function of a job: Enables a qualified person with a disability to perform the essential duties of the job being sought or current held.
 - (3) Benefits of employment: Enables an employee with a disability to enjoy the same benefits and privileges of employment as an employee without a disability.
 - (4) VA employees (part-time, temporary, term and full-time positions) and applicants.
 - b. The need for an RA is determined on a case-by-case basis. Consideration is afforded regarding specific disability and limitations to the performance of a job function, the essential duties of a job, the work environment and whether the proposed accommodation would create an undue hardship to the operations.
 - c. Relevant terms such as "reasonable accommodation," "disability," "personal assistance services," "interactive process," "qualified," and "undue hardship" are used throughout this document. The use of these terms is intended to be consistent with applicable statutory and regulatory definitions. Chapter 3 provides the definitions of terminology used regarding RA and PAS.

- d. VA will promptly process requests for RA and/or PAS where appropriate. VA will provide RA and/or PAS in a prompt, fair and efficient manner.

3. DEFINITIONS.

- a. **Computer/Electronic Accommodations Program (CAP):** CAP is an organization that is part of the Department of Defense. The CAP mission is to provide guidance regarding assistive technology and accommodations to support individuals with disabilities and wounded, ill and injured Service members throughout the Federal Government in accessing information and communication technology (<http://www.cap.mil/>). This guidance is afforded at no charge to non-Department of Defense (DoD) government agencies. **Note:** As of October 1, 2020, CAP will no longer provide assistive technology equipment to non-DoD agencies.
- b. **Direct Threat:** A direct threat is a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by RA (see 29 C.F.R. § 1614, Part 1630). The determination that an individual poses a direct threat shall be based upon an assessment of her/his ability to safely perform the essential functions of the job. This assessment shall be based upon a reasonable medical judgment which relies on current medical knowledge and the best available objective evidence.
- c. **Effective:** The accommodation provided must be effective for both the Agency and the employee at meeting the needs of the individual in performing the essential functions of the employee's job. RA will address the functional limitations caused by the disability related to the essential functions of the position. Approving an alternative accommodation is not considered a denial of the request. When there are two or more accommodations that would be equally effective, the Decision-Making Official (DMO), generally the first-line supervisor of the employee, may choose the less difficult or less expensive. If more than one accommodation is effective, the preference of the employee should be given consideration. However, the DMO has the ultimate discretion to choose between effective accommodations. The DMO may decide to provide more than one accommodation.
- d. **Essentials Functions:** The essential functions of a job are the occupational duties that are fundamental to the position to the extent that the individual cannot do the job without being able to perform them. A function can be essential if the position exists specifically to perform that function, a limited number of other employees can perform the function if given the assignment, or the function is specialized, and the incumbent is hired based on his or her ability to perform it. If a function is listed in the position description as an essential function but is not performed by the incumbent or takes only a few hours per week, it is not usually considered essential for purposes of accommodation. The following factors are considered in determining whether a job function is essential:
 - (1) Whether the reason the position exists is to perform that function;

- (2) The number of other employees available to perform the function or among whom the performance of the functions can be distributed;
- (3) The degree of expertise or skill required to perform the function;
- (4) Written position descriptions prepared before advertising or interviewing applicants for the job;
- (5) The amount of time spent on the job performing the function;
- (6) The consequences of not requiring the incumbent to perform the function;
- (7) The terms of any collective bargaining agreement;
- (8) The work experience of past incumbents in the job; and/or
- (9) The current work experience of incumbents in similar jobs.

An example of an essential function for a social worker is the ability to understand what the Veteran is saying. Speaking and hearing are not essential functions as the social worker could use an interpreter or other methods for communication. An essential function for a management analyst is the ability to obtain information, synthesize it and prepare reports. An essential function for a claim examiner is the ability to review and evaluate medical documents to process service-connected disability claims. An essential function of a Cemetery Caretaker is the ability to operate small tractors and lawn mowers and excavation of grave sites.

- e. **Extenuating Circumstances:** Factors beyond VA control which make it impossible for a reasonable accommodation to be provided within the required timeframe are extenuating circumstances. Examples of extenuating circumstances include delays encountered when ordering equipment that must be back ordered, the vendor is no longer available or there are unexpected delays by the vendor. Therefore, the office/facility is encouraged to use charge cards when possible to avoid contracts, ratification, etc. Review of medical documentation, the absence of the DMO or RAC and other situations within VA control are not considered to be extenuating circumstances and should not delay the processing of a request.
- f. **Fitness-for-Duty Evaluation:** A Fitness-for-Duty (FFD) evaluation is a medical evaluation to determine whether an individual is medically capable of performing the essential functions of the job. Only consider this option as a last resort when the VA cannot accommodate the employee in the current position and cannot find an appropriate reassignment position. All staff offices/facilities are required to consult with the local Employee Relations/Labor Relations (ER/LR) office and OGC prior to ordering an FFD. Failure to do so places the VA at risk of a per se violation.

- g. **Individual with a Disability:** An individual with a disability is a person who:
- (1) Has a physical or mental impairment that substantially limits one or more major life activities; and
 - (2) Has a record of such impairment; or is regarded as having such impairment.
 - (3) This shall be viewed in the broad sense and on a case by case analysis. The ADAAA reduced the emphasis on whether an individual has a disability by specifying that the determination should not demand extensive analysis. Example: a person who has asthma can have trouble breathing and is covered under the Rehabilitation Act of 1973 as an individual with a disability. When requested, the individual with reasonable accommodation can perform the essential functions of the position without being a direct threat to the health or safety of themselves or others. If a disability has effects that are not transitory and minor, it's covered by applicable law. A healthy pregnancy is not considered a disability and is not eligible for accommodation under the Rehabilitation Act of 1973 unless there are complications such as gestational diabetes that are covered under the Act (see EEOC Fact Sheet: Pregnancy Discrimination). However, mitigating measures cannot be considered and conditions in remission are treated as if active.
- h. **Interim Accommodation:** When all the facts and circumstances known to the VA make it reasonably likely that the individual will be entitled to an accommodation, but if the accommodation cannot be provided immediately, the VA may provide the individual with an interim accommodation that allows the individual to perform some or all the essential functions of the job, absent undue hardship. An interim accommodation should be provided immediately if the employee reports that an aspect of his or her duties is causing pain or aggravation of a medical condition. For example, an interim accommodation could include a detail to another position or telework.
- i. **Light Duty (as an Interim Accommodation):** A light duty assignment is any temporary or permanent work that is physically or mentally less demanding than normal job duties (see [EEOC Enforcement Guidance: Workers' Compensation and the ADA](#)). When an employee has been injured on the job but wishes to return to work, light duty can be offered. There is no obligation to create a light duty position for an employee with a disability or injury that was not acquired on the job. When providing the employee with light duty as an interim accommodation, it is preferable that management provide an interim accommodation by creating a temporary detail for the employee consisting of the duties the employee can perform within their functional limitations rather than remove job duties from the employee's position of record.
- j. **Major Life Activities:** A major life activity, under the ADAAA is defined broadly and includes walking, seeing, hearing, talking, standing, sitting, reaching, bending, speaking, reading, thinking, lifting, breathing, performing manual tasks and concentrating. Under the ADAAA, major bodily functions are also

considered to be major life activities; and include functions such as the immune system, normal cell growth, digestive, bowel, genitourinary, bladder, neurological, brain, special sense organs and skin, respiratory, circulatory, cardiovascular, hemic, lymphatic, musculoskeletal, endocrine and reproductive functions. Consequently, under the ADAAA, cancer is a disability even if it is asymptomatic (neither causing nor exhibiting symptoms of disease), since it affects normal cell growth. Most disabilities affect one or more major life activities. RACs should obtain guidance from the NRAC, Chief of RA Services or Office of General Counsel (OGC) when uncertain as to whether an employee or applicant has a disability affecting one or more major life activities.

- k. **Obvious Disability:** An obvious disability is one in which disability and need for the RA is visible and apparent. Examples may include a person with visual impairment who requires the use of a cane or service animal, or a significant mobility impairment as evidenced by using a wheelchair, scooter, walker, leg braces(s) and/or other redundant/extremity such as an arm, leg, hand and/or foot.
- l. **Personal Assistance Services:** Personal Assistance Services (PAS) are provided to individuals with targeted disabilities to allow them to perform basic activities of daily living to include eating and using the restroom. Effective January 3, 2017, Federal agencies are required to provide PAS through affirmative action, unless doing would impose an undue hardship on the VA. The description, processes, resources, and timelines required are contained within this handbook.
- m. **Physical or Mental Impairment:** A physical or mental impairment is a condition or disorder, including serious side effects of a prescribed medication, which limits the individual in performing a major life activity. A non-exhaustive list includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more major life activities. This includes any mental or psychological disorder such as post-traumatic stress disorder, traumatic brain injury, severe intellectual disability, organic brain syndrome, emotional or mental illness and learning disabilities. Impairments include conditions that are episodic in nature or in remission, such as cancer, epilepsy, or diabetes. An impairment of a single organ is now covered under the ADAAA. Please see [The Mental Health Provider's Role in a Client's Request for Reasonable Accommodation at Work](#) for more information about RA considerations for these types of impairments.
- n. **Qualified Individual:** According to 29 C.F.R. Part 1630.2, the term “qualified,” with respect to an individual with a disability means that the individual satisfies the requisite skill, experience, education, and other job-related requirements of the employment position; such individual holds or desires the position; and, with or without reasonable accommodation, can perform the essential functions of such position.
- o. **Providing modifications to the employee’s workspace as a reasonable accommodation (RA):** A reasonable accommodation can be a change in the

work environment and/or in work processes that enables an individual with a disability to enjoy equal employment opportunities.

(1) Types of RA include modifications or adjustments:

- (a) That change the job application process to permit an individual with a disability to be considered for a job.
- (b) That enable an individual with a disability to perform the essential functions of the job.
- (c) That enable employees with disabilities to enjoy equal benefits and privileges of employment.

(2) Examples of RA include:

- (a) Making facilities readily accessible to individuals with disabilities.
- (b) Restructuring marginal job functions (non-essential).
- (c) Allowing a modified work schedule; telework on a regular or intermittent basis; and/or alternate work locations.
- (d) Obtaining or modifying equipment or devices.
- (e) Adjusting or modifying examinations and training materials to make them accessible while retaining the substance.
- (f) Providing readers, interpreters and other auxiliary aids and assistive technologies.
- (g) Providing a modified workspace which may include an office when deemed effective and when space is available.
- (h) Non-competitive reassignment to another position for which the individual is qualified for with or without an RA. This option is the last resort when no effective accommodations can be provided in the requestor's current job.

- p. **Record of Impairment:** A record of impairment is a history of or having been classified (or misclassified) as having, a mental or physical impairment that substantially limits one or more major life activities. VA is required to consider an accommodation request from an employee with a record of impairment.
- q. **Regarded as Having an Impairment or Disability:** An individual is regarded as having an impairment or disability if the individual has been subjected to an action prohibited by the ADAAA because of an actual or perceived impairment/disability that is not both transitory and minor. VA is under no obligation to provide RA to an individual who meets only the definition of

regarded as having a disability but must be careful not to discriminate against these individuals by treating them disparately because of a perceived disability.

- r. **Remote Employee:** A remote employee is an individual who works 100 percent of the time in a non-VA-owned or leased space, within or outside of the local commuting area of the parent station as described in the Telework Request/Agreement form ([VA Form 0740](#)).
- s. **Substantially Limits:** In the regulations implementing the ADAAA, the EEOC stated: "In keeping with the instruction that the term 'substantially limits' is not meant to be a demanding standard, the regulations provide that an impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. Additionally, the ameliorative effects of 'mitigating measures' such as eyeglasses for vision improvement, are not considered when determining disability status. However, to be substantially limited in performing a major life activity an individual need not have an impairment that prevents or significantly or severely restricts the individual from performing a major life activity." VA is required to construe the phrase "substantially limits" broadly in favor of expansive coverage.
- t. **Targeted Disability:** The Office of Personnel Management (OPM) maintains the lists of conditions considered to be targeted disabilities. Some of the new additions include developmental disabilities, traumatic brain injuries, significant mobility impairments, and significant disfigurements. The description of conditions such as blindness and deafness are now less restrictive. The following link is to the most recent standard form 256 containing the list of targeted disabilities: [Self-Identification of Disability \(SF 256\)](#).
- u. **Telework:** According to the Office of Personnel Management, telework is a synonym for telecommuting which, according to VA Handbook 5011/28, "Hours of Duty and Leave," Part 2, Chapter 4, section 5.h., is "a flexible work arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work." All telework agreements based on RA will be maintained exclusively by the RAC as part of the official RA documentation. All RA documentation is subject to privacy laws, rules and regulations regarding the safeguarding of sensitive information. Transitory and Minor: If an impairment is both transitory and minor (does not affect any major life activities), VA is not required to provide an accommodation. The DMO or RAC must provide evidence that the impairment is transitory and minor. If the disability substantially limits one or more major life activities, there is no minimum duration that the disability must last. Therefore, if an employee asks for a temporary accommodation, the DMO may grant the accommodation based on the employee's requested timeframe. For example, when the requestor has a temporary impairment like a minor sprain.
- v. **Undue Hardship:** An undue hardship is the significant difficulty or expense incurred or anticipated should the organization provide an accommodation. The following criteria are used to determine undue hardship:

- (1) Nature and cost of the accommodation. (Note: Only the VA Secretary can deny a request based on cost. In determining whether an accommodation is too costly, the financial resources of the Department should be considered not just those resources of the employee's facility or staff office.)
 - (2) Overall size of the organizational unit with respect to the number of employees assigned to a facility.
 - (3) Type of operation which includes composition and structure of the workforce.
 - (4) The impact of the accommodation on the operation of the organization, including the impact on the ability of other employees to perform their duties and the impact on the organization's ability to conduct business.
- w. **Workplace Adjustment:** A workplace adjustment is a modification made to an employee's non-essential job functions and/or, work schedule that is made external to the RA process. These modifications should be considered when an employee's medical condition or impairment is considered transitory and minor. Any adjustments provided should have specific dates associated including both start and expiration dates. Workplace adjustments are made by supervisors or managers for affirmative employment of individuals with medical conditions or impairment that are not required under RA. If a workplace adjustment is provided, documentation should be kept ensuring both parties are protected.
- x. **Virtual Employee:** A virtual employee is an individual who works outside of the official hiring station at a VA-owned or leased space as described in the telework agreement form ([VA Form 0740](#)).

4. VA PROCEDURES ON PROCESSING REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE SERVICES

a. Reasonable Accommodation Process

- (1) The reasonable accommodation process and the decision timeline begins as soon as an employee, an applicant, or a third-party representative (i.e., a family member or healthcare professional or agent acting on behalf of the applicant or employee) requests an RA. A request for an RA, is a statement that an individual has a need for an adjustment at work, in the application process or in a benefit or privilege of employment for a reason related to a medical condition.
- (2) Supervisors and DMO's should note that a requestor does not have to use any specific words, such as "Reasonable Accommodation," "disability," or "Rehabilitation Act of 1973." An individual with disability may request a RA whenever she/he chooses, even if she/he has not previously disclosed the existence of a disability. The requestor does not have to have a particular accommodation in mind when making a request. Requests for a RA may be made orally or in writing. For accurate recordkeeping and tracking purposes,

it is recommended the VA employees submit the request electronically via email using the “VA Form 0857a – Written Confirmation of Request for Accommodation.” If an employee requires assistance with the form, the employee’s supervisor, other management officials in the employee’s chain of command or the RAC will provide guidance.

- (3) Assistance regarding obtaining medical documentation and identifying the employee’s qualifying disability should be referred exclusively to the RAC. This process may include communicating with the employee to clarify the request, obtaining, and exchanging information with the employee to the extent necessary regarding needs and alternatives, searching for solutions, consulting outside resources, and evaluating possible accommodation and additional.
- (4) VA employees may submit an accommodation request directly to any one of the four entities, (1) the employee’s immediate supervisor, (2) the RAC, (3) a management official in the employee’s chain of command or (4) any other individual designated by the VA to accept such requests. However, medical documentation should be submitted ONLY to the RAC. VA employees may submit an accommodation request directly to the employee’s immediate supervisor or RAC. Medical documentation should be submitted ONLY to the RAC. However, the request may also be made to another management official in the employee’s chain of command. The final determination regarding a RA request will be made by the DMO and communicated to the employee in writing. The RAC in consultation with the supervisor will draft and issue the decision form via VA Form 0857f Accommodation Request Determination. A copy of the final determination will be maintained by the RAC.
- (5) Qualified VA applicants may submit an accommodation request through the Human Resources Officer who will also be the final DMO regarding the request and will communicate the final determination to the applicant. Guidance is stated on the vacancy announcement regarding these procedures.
- (6) A family member, health professional or other representatives may submit a third- party accommodation request on behalf of an employee or applicant. The request should go to the same individuals to whom the employee or applicant would make the request. The DMO should confirm with the applicant or employee with a disability that she/he wants an RA before proceeding with third-party requests for accommodations. If the employee is incapacitated due to hospitalization or has an acute condition, VA will process the third party’s request and consult directly with the individual needing the accommodation as soon as it is practical or feasible.
- (7) Supervisors and management officials may not request or receive any medical information or documentation identifying the employee’s specific diagnosis, medical condition, or disability.

- (8) Once any employee is approved for a recurring RA, (e.g., sign language interpreter, workplace assistant, alternative materials, or training), the requestor should not be required to make repetitive requests for the same accommodation. In such cases, the supervisor or manager, RAC and the requestor should work together to anticipate any situations that may require recurring accommodation (e.g., sign language interpreters or large print documents).
- (9) Once a request is received, the requesting employee's DMO must acknowledge the request to both the employee and the RAC by completing VA Form 0857b, "Acknowledgement of Receipt of Request." If the employee requested an accommodation by completing the "Request for a Reasonable Accommodation" form, the DMO must forward a copy of both the "Request for a Reasonable Accommodation" form and the "Confirmation of a Reasonable Accommodation Request" form to the RAC within three (3) business days of the request. It is the DMO's responsibility to act immediately on an employee's RA request, whether made orally or in writing.

b. Personal Assistance Services Process

- (1) Under Section 501 of the Rehabilitation Act of 1973, VA is required to provide "Personal Assistance Services" (PAS) as a form of affirmative action. PAS provides employees with targeted disabilities assistance 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. PAS must be performed by a personal assistance service provider. Also, PAS must be provided to employees who need them when they telework under an VA's telework policy or telework as a reasonable accommodation.
- (2) PAS also must be provided when needed because of job-related travel. An employee receiving PAS in the office or while teleworking must still request PAS for job-related travel. VA will not necessarily know that PAS is required for travel simply because an employee regularly receives PAS while at the worksite or while teleworking. It is also possible that an employee may require different PAS for travel than usually required. Since PAS for job-related travel are also considered a form of reasonable accommodation, requests for these services will be handled as requests for reasonable accommodation.
- (3) Employees do not need to determine if they need a Reasonable Accommodation or PAS. Employees should simply contact the RAC and explain what they need.
- (4) The RAC will determine whether the request is for Reasonable Accommodation or PAS and proceed accordingly.

(a) VA must provide PAS if:

- i. An employee requires them because of a “targeted disability”,
- ii. Provision of these services would, together with any reasonable accommodations, enable an employee to perform the essential functions of a position the individual holds or desires.
- iii. Provision of such services would not impose an undue hardship on the VA.

(5) VA may only deny a request for PAS if the difficulty of providing the service would be an undue hardship. The process of determining whether providing PAS is an undue hardship is the same process the VA uses to determine whether a reasonable accommodation poses an undue hardship. For this and other reasons (e.g., confidentiality, tracking timeliness of responses), requests for PAS will be centrally recorded in the VA's system of records for RA. It is important to note that under Section 501 of The Rehabilitation Act of 1973, VA is prohibited from taking adverse actions against job applicants or employees based on the need, or perceived need, for PAS.

(6) The following items are unique to PAS:

- (a) Services that will not include medical services such as medication delivery, wound care, or any other medical service by an assigned contractor are non-medical.
- (a) VA will work with employees needing PAS to ensure that primary consideration is given to the employee's preferences for assigned contractors.
- (b) Employees may request to bring their own PAS provider into workplace. In such situations, the employee should work with the RAC to ensure that all security requirements are met to allow the preferred PAS provider to accompany the employee into the workplace.
- (c) If PAS is not available, the supervisor must consult with the RAC and the employee to determine if other options are available to provide the necessary support.
- (d) VA's failure to provide PAS does not, by itself, constitute a viable EEO complaint.

5. VA ROLES AND RESPONSIBILITIES REGARDING REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE SERVICES

a. Roles and Responsibilities.

- (1) **Secretary of Veterans Affairs** shall: ensure that effective process for responding to all requests for RA and PAS exist and sufficient resources are allocated.
- (2) **Assistant Secretary for Human Resources and Administration / Operations, Security and Preparedness (ASHRA/OSP)** shall:
 - (a) Maintain oversight and enforcement of the Department-wide RA policy, handbook, processes, and procedures.
 - (b) Enforce this handbook and all Departmental RA requirements to ensure consistency throughout VA in processing requests for RA and PAS.
 - (c) Ensure sufficient resources are dedicated to oversight of the RA Program.
- (3) **Assistant Secretary for Information and Technology/Chief Information Officer (ASOIT/CIO)** shall:
 - (a) Ensure VA Directive 6008, "Acquisition and Management of VA IT Resources" is distributed to all VA organizations and used consistently throughout the Department. Directive 6008 clarifies which IT-related products and services are required to be funded by IT appropriations and those that may be purchased by Administrations and Staff Offices using non-IT appropriations. For example, all IT networks and equipment; VA-developed software applications; and associated costs, voice, electronic data, and video telecommunications infrastructure are considered IT-funded requirements. These and other IT assets listed in the directive must be purchased using the VA IT appropriation. VA non-IT funded products and services include medical systems, equipment, or devices used for direct patient care, Food and Drug Administration-approved medical devices, and other IT-related products and services as defined in the directive. VA non-IT items are to be funded by the requesting Administration or Staff Office, using its internal appropriation process, subject to all laws, executive mandates, and Chief Information Officer policy.
 - (b) Ensure that IT acquisition procedures do not hinder the purchase of items needed as a RA.
 - (c) Maintain oversight of VA Section 508 Office. This office is responsible for ensuring that VA's electronic data systems and websites are accessible to individuals with disabilities under the authority of Section 508 of the Rehabilitation Act of 1973.
 - (d) Designate an Electronic and Information Technology (EIT) Accessibility Officer (508 Officer) and sufficient staff to ensure that all

EIT hardware and software are fully accessible to employees with disabilities in the VA workplace, in compliance with Section 508 of the Rehabilitation Act of 1973, as amended.

- (e) Ensure training is available for ensuring documents are 508 compliant. Provides RA related to EIT expeditiously, ensuring proper installation and training for end users when requested by the employee.
- (f) Ensure that Office of Information Technology (OIT) practices, policies, and procedures facilitate the prompt purchasing and installation of EIT accommodations.
- (g) Ensure all local equipment is accounted for by using a standardized process that protects the disability information of the user (Personally Identifiable Information [PII] and Protected Health Information [PHI]).
- (h) Work collaboratively with the ASHRA, the Deputy Assistant Secretary (DAS) for Resolution Management, Diversity and Inclusion, the Chief of RA Services, and 508 Officer to provide legally compliant, timely, and effective RA and EIT accessibility services.
- (i) Assign staff to assist the Chief of RA Services, Staff Office RACs, or Administration NRACs, and facility RACs when IT issues arise regarding an RA request and the concerns are not addressed in a timely fashion by the employee's office.
- (j) Instruct IT staff to assist in sending software and hardware to an employee's new location if an employee transfers within VA.

(4) Under Secretaries, Assistant Secretaries, and Other Key Officials shall:

- (a) Appoint a NRAC for VACO and each Administration (i.e., Veterans Health Administration [VHA], National Cemetery Administration [NCA], and Veterans Benefits Administration [VBA] and the Office of Information Technology [OI&T]).
- (b) Provide sufficient resources in accordance with this handbook to ensure effective implementation and management of the processes and procedures for responding to requests for RA and PAS. Resources may include but are not limited to, manpower and technology.
- (c) Ensure that all subordinate program offices and/or facilities comply with the guidelines contained in this handbook, to include the required VA 0857 forms.
- (d) Assign and maintain dedicated staff to adequately support the reasonable accommodation program. Staff may be located on-site or virtually, depending on the needs of the individual site. It is strongly

recommended that a minimum of one (1) full-time RAC and Alternate RAC for each facility with 100 or more employees. Facilities with less than 100 employees will have a RAC and Alternate RAC to process RA and PAS requests. However, in these instances, the duties may be assigned to the RAC and Alternate RAC at the nearest geographic facility within the respective Staff Office, Administration, or district/area/network. However, in large locations, the dedication of additional RA staff will be necessary to ensure proper and efficient processing of RA and PAS requests. RACs will be assigned, and performance standards modified within sixty (60) business days from the published date of this handbook.

- (e) Establish a higher reporting structure to ensure that processing requests for reconsideration are handled expediently and effectively following the completion of VA Form 0857I, Reconsideration Request Determination. The facility director or member of executive staff should only be considered as DMO if the requesting employee is a direct subordinate of the facility director or executive staff.

(5) The General Counsel shall ensure staff are available to:

- (a) Serve as the legal expert on RA and PAS matters.
- (b) Serve as a mandatory Review Official along with the NRAC or Chief of RA regarding prospective denials of RA and PAS. A consult with OGC and NRAC or Chief of RA must occur before a denial is communicated to the applicant or employee.
- (c) conduct training (as required).

(6) The Office of Inspector General (OIG) shall: promulgate its own policies and procedures on providing Reasonable Accommodations (RA) to employees or applicants with disabilities and Personal Assistance Services (PAS) in compliance with applicable laws and regulations. The OIG, may at its election, adopt this handbook in whole or in part.

(7) Deputy Assistant Secretary for the Office of Resolution Management and Diversity and Inclusion (ORMDI) shall:

- (a) Develop and maintain Department-wide RA and PAS policies and procedures and guides for managers, supervisors, and employees/applicants with disabilities.
- (b) Designate the Chief of RA Services. Provides sufficient staffing and budget resources to ensure adequate oversight and efficient support, guidance, and services to stakeholders within the Department.

(8) Chief of Reasonable Accommodation Services shall:

- (a) Provide governance and oversight of the VA-wide RA and PAS program and serve as a subject matter expert on RA and PAS policies, processes, and procedures.
- (b) Provide guidance, consultation, and training to organizations when there has been an adverse finding against the Department involving RA as needed or requested.
- (c) Implement the Department-wide RA and PAS policy and provide training, guidance, and assistance to administration-level NRACs, RACs, equal employment opportunity (EEO) staff, managers, supervisors, employees and applicants regarding the RA and PAS policy.
- (d) Receive, compile, and analyse summary data from the Staff Offices and Administrations for ad hoc, quarterly, and annual reporting purposes. Conducts trend analyses and develops program goals and objectives based on data trends.
- (e) Provide oversight of the RACs roles and responsibilities to include ensuring (along with NRACs) RACs are no longer functioning as ER/LR specialists. Provide guidance regarding the reporting structure of the RAC (typically the director of the facility, organization's NRAC or staff office where they are assigned).
- (f) Serve as a consultant, in conjunction with OGC and NRACs, with regards to prospective denial of RA and PAS requests.
- (g) Provide Department of Défense CAP oversight to regarding guidance and assistance to all VA stakeholders.
- (h) Provide oversight to include training, consultation, guidance, assistance, and regular communications to NRACs, RACs, and Alternate RACs, advising of recent developments and significant cases involving RA and PAS.
- (i) Monitor the timeliness of RA and PAS processing across the Department.
- (j) Develop a system of records that will capture RA and PAS requests made VA-wide. This system will gather Department-wide RA and PAS request data for a minimum of three (3) years. This system will also capture information on the day-to-day processing of RA and PAS requests. This will include adherence to timeframes, provide data to conduct trend and barrier analyses, and allow for reporting information annually as required by EEOC.
- (k) Analyze and evaluates the effectiveness of the process for responding to RA and PAS requests and provides recommendations for improvement.

- (l) Maintain a current roster of RACs, Alternate RACs, NRACs and ensures public access to these lists on the [VA RA website](#). This list can also be accessed internally via [Community of Practice for Reasonable Accommodation Services](#).

(9) National Reasonable Accommodation Consultants (NRAC) shall:

- (a) Serve as the subject matter expert (SME) on RA and PAS processes and procedures for their respective Staff Offices and Administration. Provide guidance and training to the respective Staff Office and facility RACs and collaboration regarding possible denial of RA and PAS requests.
- (b) Compile summary and report data on a quarterly basis to the Chief of RA Services contingent upon availability of national automated RA tracking system.
- (c) Serve as a liaison between the Chief of RA Services and subordinate organizations. Ensure the RAC has access to and support of senior management within his/her respective organization.
- (d) Ensure that management officials understand:
 - i. RAC roles and responsibilities;
 - ii. The need for expedient processing of request for RA and PAS;
 - iii. The importance of providing an effective RA and PAS to employees are applicants;
 - iv. The confidential nature of these requests.
- (e) Ensure that each Staff Office, Administration, and facility establish a higher reporting structure to ensure requests for reconsideration are processed expediently and effectively as per VA Form 0857I. The facility director or a member of executive staff should be considered as DMO only if the requesting employee is a direct subordinate of the facility director or member of the executive staff.
- (f) Ensure training is provided to all managers, supervisors, team leaders, RACs and Alternate RACs regarding their roles and responsibilities in processing requests for RA and PAS. This training should also include required documents, funding, and acquisition processes and RA/PAS implementation documentation (i.e., telework agreements and updates regarding tour of duty and change in official duty station memoranda). Ensures RAC and Alternate RAC receive training on how to submit requests for assistive technology guidance to CAP.

- (g) After the RAC and Alternate RAC are appointed, they provide contact information for those individual(s) to the Chief of RA Services. To ensure continuity and timeliness of operations, the RAC and Alternate RAC should avoid being out of the office simultaneously.
- (h) Ensure that accommodation requests are approved or denied at the lowest possible level usually at the level of the employee's first-line supervisor. Also, services as a mandatory denial review official along with OGC. Consultation with OGC and NRAC or Chief of RA Services must occur before denial is communicated to the applicant or employee.
- (i) Ensure the RAC is not the ER/LR specialist and the RAC reports directly to the director of the facility, organization's NRAC or Staff Office where they are assigned. This reporting structure provides:
 - i. The RAC will support and access to senior management to ensure managers and supervisors within the organization understand the RAC's roles and responsibilities;
 - ii. The need for expedient processing of requests;
 - iii. The importance of providing accommodations to employees and applicants with disabilities.
- (j) Refrain from being the DMO, except for direct-report employees, so that she/he can be part of the reconsideration process (as required).
- (k) Require that every facility and staff office have a method for tracking software, hardware and furniture provided as a RA. Additionally, ensure that any software, hardware and or furniture required as a RA is transferred with the employee whenever feasible should the employee transfer to another VA facility.
- (l) Publicize the names and contact information of all RACs, Alternate RACs and NRACs to all employees via email announcements, social media, and posters in public.
- (m) Ensure that employees and supervisors know to contact the RAC or Alternate RAC with disability accommodation questions. Each Staff Office and facility shall create a generalized RA website that involves no more than three (3) clicks from the main facility or Staff Office website, which contains the RAC and Alternate RAC's contact information and a link to the VA's RA website ([Community of Practice for Reasonable Accommodation Services](#)).
- (n) Periodically evaluate the effectiveness of the respective facilities RA processes by reviewing requests to ensure responses are appropriate, timely and maintained as per procedures outlined in the handbook.

- (o) Provide guidance and consultative services regarding the use of facilities and services accessibility to individuals with disabilities in compliance with Section 504 and 508 of the Rehabilitation Act 1973.

(10) **Reasonable Accommodation Coordinator (RAC)** shall:

- (a) Be assigned as either a RAC or Alternate RAC as authorized by the respective Administration or Staff Office and following procedures outlined in this handbook. Shall not fulfill dual roles as ER/LR Specialist while servicing as a RAC or Alternate RAC in compliance with EEOC guidelines and provisions.
- (b) Comply with all requirements of this handbook and be assigned per Appendix D of this handbook after completing all the required training annotated in the designation letter.
- (c) Process all requests for PAS following timeframes established for RA in this handbook and following process guidance in Sections 4 and 5.
- (d) Describe to applicants and employees that VA Form 0857a, Written Confirmation of Request for Accommodation, is optional but encouraged for record-keeping purposes and as validation of the request for an RA. Other forms of written communication (i.e., email, letter, memo) can be utilized to begin the RA process while ensuring proper security (i.e., encrypted email) adherence.
- (e) Explain to the applicant/employee that the requested RA must be directly related to the functional limitations caused by the disability or disabilities and that the purpose of RA is to enable an individual to perform the essential function of her/his job.
- (f) Assist management officials at all levels within the VA/organization with:
 - i. Processing requests for RA.
 - ii. Interpreting regulations and statutes.
 - iii. Reviewing existing policies and procedures.
 - iv. Recommending appropriate changes in policy and procedures when necessary to be consistent with this guidance.
- (g) Assistance may include drafting and providing samples of all VA 0857 forms for review/consideration during the various stages of the RA process.
- (h) Work with the DMOs who grant or deny requests for accommodation or who make hiring decisions, to ensure they know how to arrange for the use of agency resources to provide the accommodation.

- (i) Ensure the VA requests documentation when the disability and/or the need for an accommodation is not apparent or the functional limitation(s) caused by the disability is not obvious. Under any of the above circumstances, the RAC may request additional or clarifying medical documentation via the authorized VA Form 0857e, Request for Medical Documentation.
- (j) Ensure that VA does not request documentation if the disability is obvious or the documentation for the same functional limitation(s) has already been provided in support of a prior request for RA.
- (k) Request updated medical documentation only if functional limitations of the individual have changed to include improvement of medical/mental condition or in cases of expired time specific accommodations. Updated medical documentation can be requested if the RAC is presented with objective evidence that the current accommodation may no longer be necessary. If the VA already has documentation of the employee's medical condition and the functional limitations and there is no indication of a functional limitation change, requested updated medical documentation could be a violation of the Rehabilitation Act of 1973.
- (l) Check with the NRAC, Chief of RAS and/or OGC for agreement before:
 - i. Requesting additional medical documentation when the VA Form 0857e is not completed in its entirety.
 - ii. When further clarification is needed in determining if the employee is an "individual with a disability" per the Rehabilitation Act of 1973.
 - iii. When the exact functional limitations of the employee are unknown.
- (m) Once concurrence is received, the RAC will provide VA Form 0857k, Authorization for Limited Release of Medical Information to the employee for completion and request the employee provide the additional medical documentation within the next twenty (20) business days to ensure timely processing of the request. Contact with the health care professional must be done via official methods.
- (n) If the RAC has made two (2) requests for medical documentation from the requestor, with each request giving the requestor twenty (20) business days to provide the necessary documentation and has not received the required information, the RAC may administratively close the RA request. The medical information provided must include:
 - i. The nature of the disability and/or physical or mental impairment;

- ii. The functional limitation (s) on the employee caused by the disability and/or physical or mental impairment;
 - iii. The type of RA(s) requested;
 - iv. Explain how granting said RA(s) would allow the person to overcome her/his functional limitations to perform the essential functions of her/his job.
- (o) Upon request, an administratively closed RA request should be re-opened once sufficient medical documentation is received. Processing should resume from the point at which the RA request previously ended.
- (p) If medical documentation has not been provided within forty (40) business days, the RAC may administratively close requests for RA. Requests can be re-opened, and processing resumed once sufficient medical documentation is received.
- (q) Determine whether the applicant/employee is an “individual with a disability” within the meaning of the applicable law. Inform the DMO whether the individual has a disability covered by the Rehabilitation Act of 1973 and provide the functional limitations caused by the disability. The DMO may request that the RAC obtain additional information from the requestor if needed to clarify the nature and extent of the requestor’s functional limitations.
- (r) Refrain from sharing the specific disability or medical documentation with the DMO or other supervisory officials. Informs the applicant/employee to refrain from sharing their disability and or medical documents with anyone other than the RAC.
- (s) Ensure that when the implementation of a RA (i.e., parking, facility renovations, large print documents, Braille, electronic technology, office space) requires the assistance or approval of another department, office, or organization that the RAC contacts the appropriate individuals and ensure that the RA is processed promptly in accordance with this handbook. VA does not have the legal authority to compel a non-VA entity to grant an accommodation that is prohibited by some other authority, such as law or contract. If the RA cannot be provided, the DMO should request that the non-VA entity provide a written explanation of the basis for its inability to provide the same. VA is then required to explore alternative accommodation(s).
- (t) Seek guidance via CAP regarding requests for assistive technology and works with CAP personnel and the employees to provide any additional medical documentation requested by CAP to ensure the guidance accurately matches the employees’ requirements for an assistive technology RA.

- (u) Coordinate with the individual who has oversight of the budget of the facility or organization to secure funding for RA in accordance with this handbook.
- (v) Consult with available VA and non-VA resources to identify available RA options and guidance, as required (i.e., EEO offices, OIT, CAP, Job Accommodation Network, Employers Assistance and Research Network).
- (w) Maintain the confidentiality of RA requests and related documentation (e.g., keeping medical records separate from personnel records) and stores paper records in a locked file cabinet. Maintains all electronic RA records in accordance with VA Directive 6301, Electronic Mail Records, and VHA Directive 6300, Records Management and Health Insurance Portability Accountability Act (HIPAA). Shall not use facsimile machines to send medical information. Any emails referring to RA requests containing the identity of the requestor or medical documentation shall be encrypted. When an email is from an external entity (such as a medical provider) and cannot be sent or received encrypted, makes every effort to protect this information from viewing by anyone, other than the RAC or alternate RAC.
- (x) Answer general RA questions and provides RA guidance as required by this handbook.
- (y) Track and report all requests for RA. Provide disposition of RA requests on a quarterly and or ad hoc basis to the NRAC via approved tracking mechanisms.
- (z) Serve as a RAC for another component's virtual employee who is physically located within the facility's geographic area of responsibility when requested by the employee's assigned RAC. In these situations, the employee's supervisor remains responsible for any purchase(s) necessary to provide the approved accommodation. Facility modifications with typically come from the facility's budget.
- (aa) Coordinate with the RAC at the employee's new facility to ensure implementation of the RA to include transferring the RA equipment provided to the new facility or arranging for the new facility to provide RA equipment to the employee (as appropriate and applicable). The RA files will be transferred via encrypted electronic means. Mailed RA files shall be sent by a trackable method with signature confirmation.
- (bb) Coordinate with the local IT department to ensure that any required software or hardware is available for the employee at the new VA location when a transfer occurs.
- (cc) A RAC who has been involved in a RA request may not subsequently be involved in a personnel action involving the RA requestor.

(11) **Human Resources Officer (HRO)** shall:

- (a) Work with the RAC, DMO and requestors to ensure prompt processing of RA requests.
- (b) Consult with DMOs and RAC to review the essential functions of positions and assist with identifying possible accommodations; however, the determination regarding the accommodation provided to employees resides with the DMO.
- (c) When supporting requests RA from employees, coordinates with the DMO, RAC and the employee to identify positions for potential reassignment and work with hiring managers as necessary.
- (d) Serve as the DMO for RA requests made by job applicants and complete VA Form 0857a, Written Confirmation of Request for Accommodation.
- (e) When supporting RA requests from applicants when provided, forwards the optional VA Form 0857a to the appropriate DMO (i.e., Hiring Official) and to the Staff Office and facility RAC within two (2) business days of the request for accommodation. Diligent efforts shall be made to process requests from applicants as soon as possible, not to exceed ten (10) business days (unless extenuating circumstances exist), to enable participation in the application, interview and or selection process. Maintain documents pertaining to the accommodation request within the prescribed timeframes.
- (f) If a candidate requests a RA during the tentative or final offer stage to allow performance of the essential functions of the position, the first line supervisor for the position (DMO) must complete VA Form 0857m, Analysis of Essential Functions and submit an official decision via VA Form 0857f, Accommodation Request Determination. Offers shall neither be rescinded, nor should the position be offered to an alternate candidate solely because of an RA request.
- (g) In accordance with the Rehabilitation Act of 1973, only after a conditional job offer is made can a medical examination be required. The HRO will ensure that:
 - i. Any medical examinations are to be conducted at the “post-offer” stage;
 - ii. All gaining employees in the same job category will be subjected to the examination/inquiry, regardless of disability;
 - iii. All medical information obtained will be kept confidential.
- (h) If the applicant does not pass the medical examination because of a limitation caused by a disability, the HRO will ensure that the

applicant is aware of the RA process. If the applicant requests an accommodation that appears to address the functional limitations posed by the disability effectively, the HRO will ensure that the offer is not rescinded because of the results of the medical examination. The standard accommodation procedures as per this handbook will be followed excluding offering a reassignment search.

- (i) In the case of transfers, coordinate with the employee's supervisor or servicing HRO before the employee's departure. This should occur at least ten (10) business days in advance or as soon as the transfer is confirmed (the servicing HRO provides effective date) to ensure appropriate arrangements take place (e.g., transfer of RA equipment).
- (j) Verify that adherence to proper procedures occurs when processing a request for PAS. This is an affirmative employment initiative rather than a RA requirement. The RAC will handle both PAS and RA requests. [VA EEOC Management Directive 715, Part J](#), on the "Special Program Plan for the Recruitment, Hiring, Advancement, and Retention of Persons with Disabilities" contains a reference to this handbook, specifically PAS. Refer to Chapter 4 of this handbook for additional information of PAS.
- (k) Conducts reassignment job searches in collaboration with the RAC and the employee when the Department has exhausted all efforts to accommodate the employee in her/his current job.
- (l) Ensure HR Staffing Specialists at any VA HRO cooperate with an employee's servicing HRO when searching for potentially suitable reassignment positions.

(12) DMOs, Supervisors, and Group or Team Leaders shall:

- (a) Have an understanding or working knowledge about the policy and procedures for processing requests for RA. Explain to the requestor the process for handling RA requests, what criteria are used to make the RA determination and who will make the decision.
- (b) Have an understanding or working knowledge of the Rehabilitation Act of 1973. This Federal law is superior to any office, facility, Administration/Staff Office, or VA policy on telework, hours of duty, parking, office space and use of leave. When the requirements of the Rehabilitation Act of 1973 conflict with a standard VA policy and procedure, the law often requires VA to deviate from the VA's/facility's policy and procedures.
- (c) Understand the need to be engaging, proactive, creative, and flexible when considering accommodation requests.

- (d) Identify an employee's request for RA in consultation with the RAC, and in accordance with the guidance provided in this handbook, and all applicable laws and regulations. Organizations must consult with NRAC or Chief of RA and OGC before issuing a denial.
- (e) Maintain confidentiality of requests for RA and maintain records consistent with the guidance in this handbook. Refrain from sharing any information regarding an employee's or applicant's request for accommodation outside of the information authorized under Section 4I of this handbook.
- (f) Refrain from receiving or reviewing the requestor's medical documentation. If the RA requestor is also a Veteran, the above prohibition extends to accessing or examining the Veteran's VA patient/benefit client files. Only the RAC is authorized to review the requestor's medical documentation and will advise the DMO whether the employee has a disability that is covered by the Rehabilitation Act of 1973 and, if so, the functional limitations caused by the disability. If an employee provides (or attempts to provide) medical information or medical documentation to the DMO, supervisor, group or team leader, the requestor will be advised to give this information directly to the assigned RAC.
- (g) When serving as the DMO, ensure that requests for RA and the process for deciding on those requests are appropriately documented and provided to the RAC.
- (h) The DMOs who grant or deny requests for accommodation or who make hiring decisions, will work with the RAC, to ensure they know how to arrange for the use of agency resources to provide the accommodation. If VA determines an accommodation is approved under this policy, the RAC will work with each division and office to ensure that all approved accommodations are funded. To deny an accommodation based on cost, agency officials must consider all resources available to the agency, excluding those designated by statute for a specific purpose that does not include reasonable accommodation. Only the Secretary of Veterans Affairs can deny a reasonable accommodation based solely on costs.
- (i) Coordinate funding from the respective Staff Office/Administration budget department to make the RA purchase(s). DMOs are responsible for providing proof of purchase and receipt of accommodation by the applicant/employee to the RAC for record keeping purposes.
- (j) When appropriate, search for and propose an alternative accommodation that is effective at meeting the needs of the applicant/employee, after discussion with the assigned RAC.

- (k) Make accommodation decisions as expeditiously as feasible and provide approved accommodations within a maximum of thirty (30) business days from the date of the initial request. If extenuating circumstances cause the request to be delayed beyond thirty (30) business days, sends written notification to the RAC. Every effort should be made to provide the accommodation determination within thirty (30) business days. Time spent pending receipt of medical documentation is not counted towards the processing timeline. The timeline resumes once sufficient medical documentation medical documentation is received.
 - (l) Designate an alternate DMO, to process requests in the absence of the DMO. This designation is temporary in nature and must reflect the effective timeline for this designation.
 - (m) Alert the RAC when an employee with an RA is transferring to a new VA location so that the RA is transferred when feasible. This notification should occur a minimum of ten (10) business days before the employee moves to the new location or as soon as the transfer is confirmed.
 - (n) Engage in the interactive process by conducting a minimum of one (1) interactive discussion/meeting with the employee and the assigned RAC to discuss the employee's accommodation request.
- (13) **Managers and Supervisors and/or Team Leaders, Who are Not the DMO, but Receive a RA Request** shall:
- (a) Forward the RA request to the appropriate Administration, Staff Office, facility RAC or Alternate RAC and the appropriate DMO within three (3) business days.
 - (b) Provide the requestor with the name and contact information of the Staff Office, facility's RAC or Alternate RAC.
- (14) **Employee with Disabilities who Request RAs** shall:
- (a) Inform their supervisor, any manager in his or her supervisory hierarchy, or the RAC of the need for an RA. Requests may be oral or written. The employee should not provide or attempt to provide anyone in management with her/his medical documentation. This information should be provided only to the RAC or Alternate RAC.
 - (b) Engage in the interactive process by working collaboratively with the DMO, RAC or Alternate RAC, HRO representatives and VA's Section 508 Accessibility Testing and Training Center to identify accommodations that will enable her/him to perform the essential functions of the job, participate in VA activities and enjoy the benefits and privileges of VA employment.

- (c) Refrain from submitting assistive technology guidance requests to CAP. The assigned RAC is the only individual authorized to request assistive technology guidance from CAP.
- (d) Provide the assigned RAC the completed VA Form 0857e when the disability and/or need for accommodation is not obvious and/or the medical documentation provided is determined by the RAC to be insufficient. Failure to cooperate can result in the administrative closure or denial of the RA request.

Note: The timeframe for processing the RA is suspended whenever the Department is pending receipt of necessary information from the requestor. This can occur when waiting for medical documentation or clarification of functional limitation(s). The timeframe may also be suspended when implementation of the RA is not within the control of the Department (e.g., ordering furniture or equipment). RA requests may be administratively closed if requested medical documentation is not received within forty (40) business days. The process can be resumed once sufficient medical documentation is received. VA will not obtain medical documentation for the requestor.

- (e) Inform the RAC of his/her pending transfer to another position internally or transfer to a different VA facility to ensure accommodation in the new position or VA location. This notification should occur no later than ten (10) business days in advance of the transfer to another VA facility is confirmed (the effective date is provided by the servicing HR office).
- (f) Cooperate with the RAC and the DMO by participating in the interactive process and providing medical documentation upon request to the RAC or Alternate RAC.
- (g) Ensure that the health care provider completes VA Form 0857e in its entirety. Failure to cooperate may result in a delay, administrative closure, or denial of the RA request.
- (h) Complete the Employee Limitations on Reassignment Options (VA Form 0857h) within ten (10) business days of the receipt date. The search for a possible reassignment cannot begin until the completed form and updated resume is returned to the RAC.

(15) Applicant with Disability(ies) who Request an RA shall:

- (a) Make a request to the HRO staff, the HR liaison listed in the vacancy announcement for application assistance or arranging an interview or to the selecting official. Requests may be oral or written. Tracking of applicant requests.

- (b) Engage in the interactive process by working with the HRO and the selecting official to identify a RA that will enable the applicant to compete for the position and or make an informed decision about a job offer.

Note: Because time is limited during the application process (pre-job offers), applicant will not be asked to provide documents of disability.

6. ENSURING REEMPLOYMENT OF EMPLOYEES INJURED ON THE JOB

- a. When an employee has incurred a serious workplace injury or illness but is ready to return to work if an accommodation is provided, VA will work with the employee to identify and provide an appropriate accommodation. The goal is to identify injured employees, as defined under the Federal Employees' Compensation Act, who would benefit from accommodations and reassignment to increase return-to-work outcomes. Accommodations are provided to employees with temporary injuries or disabilities regardless of whether an Office of Worker's Compensation Programs (OWCP) claim is approved.
- b. Once the employee's physician clears the employee to return to work, the policy is to provide accommodation when appropriate. If an on-the-job injury results in a temporary condition or limitation, the following accommodations may be offered: light or limited duty, detail assignment, and/or a voluntary leave of absence. If the limitation is permanent:
 - (1) The duties may need to be restructured;
 - (2) Non-essential duties may be eliminated;
 - (3) Provide a reasonable accommodation as appropriate.

In some situations, the employee may need to be reassigned to a different position. Please refer to the [Department of Labor Office of Worker's Compensation Programs](#) website or contact your local OWCP representative for more information.

7. TIMEFRAME FOR PROCESSING REQUESTS

- a. All VA Staff members are expected to act quickly in processing requests and providing accommodation in as short of a timeframe as possible. While the timelines outlined below serve as a guide, it is important to note that some accommodations can be provided in less time. The failure to respond promptly to a request for RA, or an unnecessary delay when implementing a RA, may result in a violation of the Rehabilitation Act of 1973.
- b. If a request can be processed by the employee's DMO and does not require supporting medical information, and not extenuating circumstances apply:
 - (1) The request shall be approved or denied as soon as possible, but not to exceed ten (10) business days from the date the individual makes the

request. Denials will be processed in accordance with Section 13, Denial of Reasonable Accommodation Requests.

- (a) The accommodation will be provided as soon as possible but no later than twenty (20) business days from the date of approval.
- (b) The RAC shall be kept fully informed of the RA request and actions taken.
- (c) If medical documentation is required.
- (d) The RAC shall request that the employee contact her/his health care provider to obtain medical documentation in support of her/his request and suspend timeframes until the requested medical documentation is submitted. The request will resume and be processed in accordance with the timeframes when the medical documentation is received.
- (e) When necessary, as determined by the RAC, redacted supporting medical documentation will be reviewed by an employee of the facility's Occupational Health Unit who will render a recommendation. During the review process, the employee may be afforded temporary/interim accommodation whenever possible/feasible. In instances involving safety or risk, a temporary/interim accommodation will be provided as quickly as possible or as feasible. Timelines are not suspended during an internal VA review of medical documentation to include contractors acting on VA's behalf.

c. Expedited Processing of a RA:

- (1) To enable that an applicant with a disability has an equal opportunity to apply for a job, contingent on the timetable for receiving applications, conducting interviews, taking test, and making hiring decisions. Therefore, the Human Resources Specialist will act as quickly as possible to provide a RA as warranted.
- (2) To enable an employee to attend a meeting or event scheduled to occur shortly. For example, an employee may need a sign language interpreter for a meeting within a short timeframe.

d. Extenuating Circumstances:

"Extenuating Circumstances" cover limited situations in which unforeseen or unavoidable events occurring beyond the control of VA personnel prevent the processing and delivery of accommodation within the timeframes listed above. The following are examples of extenuating circumstances: An outstanding initial or follow-up request for medical information.

- (a) The need for a medical examination or additional medical documentation.

- (b) Purchase of equipment may take longer than thirty (30) business days because of requirements under the Federal Acquisition Regulation.
 - (c) Equipment must be back ordered, the vendor typically used for goods or services has gone out of business or cannot promptly supply the needed products or services and another vendor is not immediately available.
 - (d) The need to hire new staff or issuance of new contracts.
 - (e) The mandatory removal of architectural barriers.
 - (f) The need to order items from non-local sources.
- e. When extenuating circumstances are present, extend the timeframes for processing a request and providing the accommodation as necessary; however, afford the employee an interim accommodation where possible or feasible.
- f. The DMO or RAC must promptly notify the employee, in writing, of the reason for the extension and the approximate date on which a decision or provision of the RA is expected. Any further developments or changes should also be communicated promptly in writing to the employee.
- g. When all the facts and circumstances known to the VA make it reasonably likely that an individual will be entitled to a reasonable accommodation, but the accommodation cannot be provided immediately, the VA shall provide an interim accommodation that allows the individual to perform some or all of the essential functions of his or her job, if it is possible to do so without imposing undue hardship on the VA, the DMO will provide an interim (temporary) accommodation that will enable the employee to perform some or all the essential functions of the job, absent undue hardship.
- h. Deciding officials who approve temporary measures are responsible for assuring that they do not take the place of the ultimate accommodations and that all necessary steps to secure a RA continue.
- i. VA may not delay processing or providing an RA because a staff member is unavailable. Failure to meet this timeframe solely because of staff delays in processing the request is not justified as an extenuating circumstance.
- j. If the employee needs to try various accommodations to find one that is effective, extending the timeframe for providing the RA will be by mutual consent between the employee and deciding official, notifying the RAC for tracking purposes.

8. THE INTERACTIVE PROCESS

- a. Communication among the requestor, the DMO and the RAC, is a priority throughout the entire process. Extensive discussions are not necessary in cases

where the disability, the need for accommodation and the type of RA to be provided are obvious. However, if the need for an accommodation is not immediately obvious or if there are several options for providing accommodations; the employee, the supervisor and the RAC will enter an interactive process through which they will strive to arrive at an effective RA.

- b. The RAC is available to provide technical assistance and guidance to both VA employees and DMO throughout this process. Primarily this will occur when the specific limitation, problem, or barrier is unclear, or where an effective accommodation is not apparent.
- c. During the initial interactive process both the RAC and the DMO will explain the reasonable accommodation process to the employee at this time. When engaging in an interactive process, consider:
 - (1) The essential functions and purpose of the employee's job;
 - (2) The functional limitations imposed by the employee's disability or medical condition;
 - (3) The factor's in the work environment or job tasks may pose difficulties to the individual's performance of a job function;
 - (4) Possible accommodations that have the potential to remove the challenges, either in the work environment or job tasks, and which would allow the individual to perform the essential functions of the job;
 - (5) The effectiveness of possible accommodations and whether the various accommodations would pose an undue hardship of the VA.
- d. As part of the interactive process, the DMO will consult with the RAC. The RAC may offer alternative suggestions as recommended by the (Job Accommodation Network (JAN)) or other similar employee accommodation resources for RA and discuss the effectiveness in removing the workplace barrier that is impeding the individual with the disability. The DMO may choose among effective accommodations but is not required to provide the specific RA requested by the employee.
- e. Resources available to help both the DMO and the individual requesting the accommodation to identify possible accommodations are listed in Appendix C. As soon as the DMO approves the request for a RA, immediately communicate the approval to the employee. The DMO in collaboration with the RAC must inform the individual in writing of the projected timeframe for providing the accommodation if it cannot be provided immediately.

9. REQUESTS FOR MEDICAL INFORMATION

- a. In VA, the RAC will determine if medical documentation is necessary. VA may not request medical information where (a) both the disability and need for accommodation are obvious; or (b) the individual has already provided VA with

sufficient information to document the existence of a disability and her/his functional limitations.

- (1) VA may ask an individual who requests an accommodation to provide medical information that is sufficient to explain the nature of the individual's disability, his or her need for reasonable accommodation, and how the requested accommodation, if any, will assist the individual to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace. VA has the right to request relevant supplemental medical information if the first submission was insufficient.
- (2) Documentation is sufficient if it:
 - (a) Describes the nature, severity and duration of the employee's impairment, the activity or activities that the impairment limits, and the extent to which the impairment limits the employee's ability to perform the essential functions of the job or enjoy the benefits and privileges of the workplace.
 - (b) Substantiates why the requested RA is needed and establishes the individual is a person with a disability and her/his functional limitations.
- b. The VA will suspend the processing of a RA and will not be expected to adhere to its usual timelines if an individual's health professional fails to provide required documentation in a timely manner. The VA has the right to request relevant supplemental medical information if the first submission is insufficient. The VA also has the right to have medical information reviewed by a medical expert of the VA's choosing at the VA's expense.
- c. The RAC will let the DMO know whether the medical documentation demonstrates that a RA is appropriate and will provide additional relevant information about the individual's functional limitations. The RAC is prohibited from sharing medical information and/or documentation with the requestor's DMO, other management officials or co-workers. Work products and communications created during the review of medical documentation, including findings submitted by ([Federal Occupational Health \(FOH\)](#)), are confidentially maintained by the RAC and will not be shared with the requestor, requestor's DMO, other management officials, co-workers or third parties (except as required under Section 10, Confidentiality Requirements, of this handbook).
- d. It is important to note that the failure of an employee or job applicant to provide appropriate documentation or to cooperate with VA's efforts to obtain such documentation can result in a denial of the request for RA.

10. CONFIDENTIALITY REQUIREMENTS

- a. Under the Rehabilitation Act of 1973, medical information obtained in connection with the RA process must be kept confidential. These confidentiality

requirements strictly bind any VA employee who obtains or receives such information. Additionally, all requests for and provision of RA must be kept confidential according to EEOC guidance including, "Enforcement Guidance: Disability- Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act". All records received regarding the RA process will be maintained in accordance with the Privacy Act, EEOC, General Records Schedule, VA records management policy, and Health Information Portability Accountability Act (HIPAA) requirements. All medical information received regarding a request for RA, including information about functional limitations and RA needs, will be kept in a separate file or record that is maintained by the RAC. The RAC will respond to all requests for disclosure of the records. This information will only be disclosed as follows:

- (1) Supervisors and managers with a need to know may be informed about necessary restrictions on the work or duties of the employee;
 - (2) First aid and safety personnel may be notified; when appropriate, if the disability might require emergency treatment;
 - (3) Government officials may be provided information necessary to investigate or provide technical assistance to ensure compliance with the Rehabilitation Act of 1973;
 - (4) In certain circumstances, medical information may be provided to Workers' Compensation offices or insurance carriers; or
 - (5) Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements.
- b. Any VA official who receives information relating to a request for RA may share information connected with that request with other Department officials only when the officials need to know the information to make determinations on an RA request. The DMO will contact the RAC to obtain guidance when needed to ensure they follow proper procedures. Examples of a need to know include but are not limited to the RAC consulting with OIT requests for adaptive equipment for computers, and request for information related to EEO complaints from EEO Offices.
- c. The RAC may also request guidance from CAP, regarding assistive technology solutions for accommodations. However, OIT and CAP would not need to know the medical condition of the individual seeking the accommodation and would need to know only the individual's functional limitations and how the limitations affect technology needs.
- d. Any DMO who has confidentiality concerns (e.g., including how to respond to other employee's inquiries without violating confidentiality) should speak with their RAC, NRAC, OGC or the Chief of RA Services.

11. REASSIGNMENT

- a. Reassignment is a form of RA that may be provided, absent undue hardship, because of a disability, when the employee can no longer perform the essential functions of the current position with or without RA. Reassignment consideration will occur only if no other effective accommodation would enable the employee to perform the essential functions of the current job, or if all other possible accommodations would impose an undue hardship on the organization. Accordingly, job reassignment is the "accommodation of last resort." Reassignment is available only to employees, not job applicants.
- b. Reassignment may not be available to a probationary employee. If the employee adequately performed the essential elements of the position, with or without RA, before the need for the accommodation arose, reassignment may be considered. However, if the requestor has never demonstrated the ability to perform all the essential functions of the current job, then reassignment need not be considered as a RA. Furthermore, the VA is not required to create new positions or move employees from their jobs to create a vacancy. The RAC will evaluate the request and, if it meet the criteria mentioned above, will help to facilitate the reassignment process.
- c. The RAC will work with Office of Human Resources and/or VA leadership, as well as the employee requesting the accommodation, to identify:
 - (1) all vacant positions within VA for which the employee may be qualified with or without an RA and
 - (2) all current vacancies identified, or projected vacancies (over the next 40 business days).
- d. The vacancy search will focus on positions for which the employee may be qualified, concentrating first on vacancies that are in the current commuting area and are equivalent to the employee's current grade/pay, status, and other relevant factors.
- e. Reassignment may be made to a funded, vacant position outside of the employee's current commuting area if the employee is willing to relocate. As with other transfers not required by management, the VA will not pay for the employee's relocation costs. Also, as part of the interactive process and if reassignment is under consideration, the individual shall be asked to complete the VA form 0857h Employee Limitations on Reassignment Options and identify qualifications, interests, and willingness to accept a reassignment outside the local commuting area and to accept a downgrade if no vacant positions exist at the same grade.
- f. When reassignment is considered, the accommodation is to reassign the employee to a funded vacant position for which the employee is qualified and can perform the essential functions of the position with or without accommodation. Requiring, or giving permission to, the employee to compete for

such a vacancy does not fulfill the request. As stated in EEOC's Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, the employee does not need to be the best-qualified individual for the position to obtain it as a reassignment.

- g. The HR staff should explain to the supervisor for the identified vacancy: "Your vacancy was identified as a suitable position for an employee who needs a reassignment as an accommodation. VA is required to follow U.S. Equal Employment Opportunity Commission (EEOC) guidance in this matter; the EEOC interprets VA obligations under the Rehabilitation Act of 1973, as amended. Therefore, this reassignment is non-competitive. The Staffing Specialist reviewed the job description and compared it to the employee's resume, and she/he was found to be qualified. If you wish to meet the employee before she/he comes on board, you may do so, but we need to stress that this is not an interview. It has already been decided that this employee will be reassigned to this position. Please note that an individual's disability status is private information and may not be shared with anyone not having a bona fide, business related need to know. I want to thank you for your support of VA's efforts to comply with legal requirements."
- h. If the employee is moving to a new location and has VA issued equipment, that equipment follows the employee to the new location whenever it is fiscally sound and feasible.
- i. If another VA employee applied for the slot that will be filled by the reassigned employee, the manager/supervisor at the new location may tell the unsuccessful candidates only that the individual "...was selected in compliance with applicable laws." Under no circumstances should they tell anyone that the individual was placed as a reasonable accommodation, and no mention should be made of the disability.
- j. If the requestor has identified a vacant, funded position, the essential functions of which he or she claims he or she can perform, with or without accommodation, HR must make a sufficient inquiry to determine whether the reassignment proposed by the requestor would effectively accommodate his or her disability, and whether the position is otherwise suitable. If so, the requestor should be offered and placed in the position non-competitively.
- k. If HR is unable to identify a suitable position to which the employee can be reassigned within forty (40) business days, the RAC will issue the VA form 0857p to the requestor which will also provide the requestor with avenues of redress. The RA request will be formally closed using VA Form 0857q Final Accommodation Determination (Case Closure).

12. PARKING

- a. When there are a limited number of employee parking spaces, an employee with a mobility impairment or a disability that precludes him or her from using public transportation has priority over all other groups, per title 41 C.F.R. § 102-74.305.

Additional handicapped (HC) spaces will have to be created if a facility does not have enough HC parking spaces for the number of employees with mobility impairments who requested parking as a RA. Facilities may NOT require employees to arrive early to get a space. Assigning each HC space to a specific employee is highly recommended.

- b. When an employee requests a space near the building as an RA (and goes through the accommodation process and is granted such a space), that employee must be provided an assigned space with the shortest route to the workspace. The ADA Accessibility Guidelines specify the size of the space and the access area.
- c. Every facility that provides any parking spaces to employees must have a standardized method for ensuring that employees with mobility impairments receive the parking spaces that are closest to the building if requested, or spaces large enough for egress. This applies to all VA facilities, including leased facilities. Spaces provided as a RA should be clearly marked as a designated spot without providing any signage or other information that would disclose to the public the identity of the requestor to whom the parking space is assigned.

13. DENIAL OF REASONABLE ACCOMMODATION REQUESTS

- a. The inability to accommodate the employee in their current position along with the inability to find a suitable reassignment position for the employee is not considered to be a denial of the employee's RA request. Instead, it constitutes an inability on the part of the Agency to identify a suitable RA for the employee. In such cases the reassignment search concludes with no positions found and the employee is notified via 0857p Reassignment Search Conclusion (No Position Found) and 0857q Final Accommodation Determination (Case Closure) forms. A denial occurs when the VA refuses to grant the requestor the accommodation(s) requested and refuses to consider any alternative accommodation. A denial also includes unilaterally removing an existing accommodation from an employee without engaging in the interactive process. An alternative accommodation (something other than what the employee/applicant requested) is not considered a denial. However, follow-up interactive discussions should occur between the employee and DMO to ensure the accommodation provided remains effective. An alternative accommodation should be explored before the issuance of a denial of a request for an RA. After consultation with the NRAC or Chief of RA and OGC, the DMO may deny the request for accommodation for the following reasons:

- (1) **Undue Hardship.** A determination of undue hardship means that VA finds that a specific RA would be significantly challenging to provide or would fundamentally alter the nature of the operations of the affected VA organization as defined earlier. Before reaching this determination, the DMO in consultation with the above-named officials, must explore whether other effective accommodations are available and can be provided.

Note: In determining whether an accommodation poses an undue hardship, the financial resources of the organization or the Department should be considered and not just the resources of the individual facility or program office. Thus, only the VA Secretary can deny a request based on cost, and facilities can invoke undue hardship only for impact on operations.

- (2) Insufficient Medical Documentation. The employee did not provide sufficient medical documentation to establish a covered disability or a need for reasonable accommodation. Medical documentation will not be requested or required when the impairment is obvious; or the employee has already submitted documentation to VA in the past for the same functional limitation.

Note: If medical documentation received from an appropriate health care provider individual or entity, states the disability and the functional limitations, it is VA's policy to not request additional medical documentation. Instead, the facility or office must move to the decision process. Requests for additional documentation must be reviewed by either the NRAC, Chief of RA or OGC.

- (3) Removes Essential Function(s). The requested accommodation would require the removal of an essential function from the position occupied by the employee or from the position for which the applicant applied. See Chapter 3 for the definition of essential functions.
- (4) Lowers Standards. The requested accommodation would require lowering a performance or production standard required of all employees in similar positions (job series/grade level). To invoke 'lowers standards' as the reason for denial, the performance or production standard must exist before the time of the request.
- (5) Not Required by Law. The requested accommodation is not required by Federal law, such as personal use items (i.e., a prosthetic limb, eyeglasses, or hearing aid) that are needed in accomplishing daily activities both on and off the job. The VA is also not required to provide the requested accommodation if the requestor is not deemed to be a qualified individual with a disability within the meaning of applicable law.
- (6) Direct Threat. The individual poses a "direct threat" to the health and safety of herself/himself or others. There must be a high probability of substantial harm that cannot be eliminated or reduced by providing an RA. In those instances, the DMO must consider the limitations of the individual and specifically the:
- i. risk posed by the impairment or functional limitation;
 - ii. duration of the risk;
 - iii. nature and severity of the potential harm;
 - iv. likelihood that the harm will occur, and;

v. imminence of the potential harm.

- (7) In accordance with EEOC guidance, direct threat determinations, as with all decisions related to RA, are made on a case-by-case basis. The decision must not be based on generalizations or assumptions. Contact a health care professional, facility safety officer or OGC staff for any needed assistance before denying a RA request based on direct threat.
- (8) The DMO may NOT deny the request for accommodation for any of the following reasons:
 - (a) A bias against the employee or the accommodation process.
 - (b) The facility cannot fund the cost of the accommodation. The funding is the responsibility of VA thus only the VA Secretary may deny an RA based upon cost.
 - (c) The requested accommodation requires a change or exception to an Administration, Staff Office, or facility policy. There will be situations when an RA will require a departure from routine practices or procedures. For example, if essential functions of the position can be performed off-site but the office has a practice of not allowing telework, an employee who has a medical condition that makes the commute to be too challenging may be permitted to telework. In the same manner, a parking space near the building should be granted when requested by an employee who has a mobility impairment. The Rehabilitation Act of 1973 supersedes a facility's parking, telework and other policies if the policy, in its application, denies an individual with a disability reasonable access to the workplace.
- (9) All denials will be communicated via a completed VA Form 0857g, Denial of Accommodation Request at the time of the denial, and in an accessible format when requested
- (10) Denial of a request from an employee: If the DMO cannot grant any effective accommodation, she/he must complete VA Form 0857g, Denial of Accommodation Request, explaining in detail why the request was denied. The DMO must then share the VA Form 0857g with the NRAC, OGC staff or Chief of RA before communicating the denial to the requestor.
- (11) Denial of a request from an applicant. If the HRO cannot grant an effective accommodation, the HRO must consult with the NRAC, OGC staff or Chief of RA before communicating the denial to the requestor. If the requestor is an applicant for a position in the Office of Inspector General (OIG), the servicing HR Office must follow applicable OIG procedures.
- (12) In the OIG the offices will only serve as consultants and concurrence is not required. Denial of a request from an applicant should be very infrequent. The servicing HR Office should notify the applicant in writing of the denial

within ten (10) business days of the initial request and inform the applicant of possible avenues of redress.

14. RECONSIDERATION PROCESS FOR REASONABLE ACCOMMODATION DETERMINATIONS:

If an employee or applicant believes that he or she has been denied a reasonable accommodation or granted a RA that is ineffective or unacceptable, he or she has the following options:

- a. **Request Reconsideration.** Upon receipt of the DMO's determination, the employee or applicant has seven (7) business days to request reconsideration. After receiving a request for reconsideration, a senior official above the DMO has seven (7) business days to render a decision and notify the requestor, in writing. A final interactive process with the RAC or Alternate RAC, the employee, and a senior official is recommended to ensure that any concerns are heard before a final decision determined. VA Form 0857I, Reconsideration Request Determination, will be issued to the applicant/employee to document the decision, and a copy will be released to the applicant/employee's assigned RAC for recordkeeping purposes.
- b. **File an EEO Complaint.** To file an EEO complaint, applicants for employment or employees must contact an EEO counselor within forty-five (45) calendar days of receiving the initial decision, or within forty-five (45) calendar days of the decision on reconsideration if a request for reconsideration was filed, pursuant to 29 C.F.R. Part 1614. Contact ORMDI's Hotline at (888) 566-3982 for further information.
- c. **File a Union Grievance.** Bargaining unit employees may file a grievance in accordance with the applicable Collective Bargaining Agreement, and the union's negotiated grievance procedure will apply. Contact the local union representative for further information.
- d. **File an Administrative Grievance.** This is a procedure used by non-bargaining unit employees who may file an Administrative Grievance to challenge the decision within fifteen (15) business days of receiving the initial decision, or within fifteen (15) business days of the decision on reconsideration if a request for reconsideration was filed decision by contacting anyone in their chain-of-command. The employee should also inform the servicing HR office that they are filing an Administrative Grievance. Contact the servicing HRO for further information.
- e. **Request Alternative Dispute Resolution (ADR).** Employees and applicants are encouraged to participate in the informal resolution processes available to address the reasonable accommodation outcome. The ADR process is outlined in VA Directive 5978, Alternative Dispute Resolution. Individuals may participate in ADR as part of the above-listed avenues of redress or independently. If participation is independent of the above-listed avenues of redress, it does not meet the requirements for filing claims under the processes. If the employee

believes she/he may also want to pursue other avenues of redress, the employee should check with the appropriate EEO/Union/HR office to ensure that time requirements are met. Learn more about ADR at Alternative Dispute Resolution (ADR).

- f. Contact VA Harassment Prevention Program (HPP). The HPP is an enterprise-wide program within ORMDI that provides centralized tracking, monitoring, and reporting processes to proactively respond to all allegations of harassment, whether an EEO claim accompanies it. HPP will ensure all harassment allegations are reported to VA leadership outlining prompt corrective measures taken to decrease harassing behavior in the workplace. HPP is responsible for providing education and awareness training on the harassment program and the reporting process. HPP is committed to establishing transparency and accountability at every employment level. Learn more about HPP at Harassment Prevention Program.

15. ADMINISTRATIVE CLOSURE

- a. Under certain circumstances, a request may be administratively closed using the VA Form 0857d form. Reasons for administrative closure include:
 - (1) The employee informed the RAC or DMO that the requested accommodation is no longer required and withdraws the RA request;
 - (2) The employee does not have a disability covered by the Rehabilitation Act of 1973;
 - (3) The employee did not submit a completed VA Form 0857e, Request for Medical Documentation, within forty (40) business days of the RAC request for this information and the employee does not have an obvious disability;
 - (4) The employee submitted an incomplete VA FORM 0857e, Request for Medical Documentation or it was completed by an inappropriate Medical/Mental Health Professional for the employee's medical/mental health condition (s);
 - (5) The employee does not respond to emails, phone calls or voicemail messages from the DMO and or RAC for a minimum of twenty (20) business days, creating the impression that she/he has abandoned (withdrawn from) the interactive process;
 - (6) The employee refused to accept accommodation(s) offered by her/his original DMO and did not submit her/his Reconsideration Request within the seven (7) business days allowed per VA Form 0857f, Accommodation Request Determination form;
 - (7) The employee retired, transferred, or resigned from Federal Service;
 - (8) The applicant/employee provided her/his request under false pretences.

- b. At any later date, when the employee expresses an interest in resuming the process; the request can be reopened, and the timeframe for processing resumes from the point where processing of the request ceased when the request was administratively closed.

16. INFORMATION TRACKING AND REPORTING

- a. RACs shall be responsible for retaining records related to an employee who has requested an RA or PAS for the duration of that individual's employment in the Department. These records include any documentation of the individual's disability or need for an RA and/or PAS as well as information about the disposition of that individual's RA and/or PAS request. These records must be kept separate from the individual's personnel file. RA and PAS records shall be sent to the gaining RAC when an employee transfers to another VA organization. Three years after the individual separates from VA, the medical documentation and other information regarding the individual RA and or PAS request will be destroyed as instructed by the Records Control Schedule (RCS).
- b. Applicants and Employees can contact the RAC for the status and information regarding their RA/PAS requests. RACs responsible for tracking all applicant and employee RA and employee PAS requests utilizing the enterprise system of record and using appropriate forms contained in this handbook. This system shall include the following details:
 - (1) The requested number and types of RA and/or PAS, the application process, and whether those requests have been granted or denied.
 - (2) The number of jobs (occupational series, grade level, and VA component) researched and/or provided as RA requests.
 - (3) The requested types of RA for each of those jobs.
 - (4) The number and types of RA and or PAS for each job, by VA component, that have been approved, and the number and types that were denied,
 - (5) The number and types of requests for RA and or PAS If the accommodation was needed to apply for a job or perform the essential functions of a job or enjoy the benefits and privileges of employment. and whether those requests have been granted or denied.
 - (6) The reasons for the denial of RA and/or PAS requests and the name of the DMO in each case.
 - (7) The amount of time taken to process each request for RA and/or PAS;
 - (8) The sources of technical assistance utilized in trying to identify possible RA and/or PAS.
- c. RACs shall save reports of their records monthly using the reporting options in the enterprise system of record.

- d. Cumulative information will be retained for at least three years to track VA compliance and assess whether accommodation requests are being processed in compliance of nondiscrimination and affirmative action requirements under Section 501. The records will be made available to the Equal Employment Commission upon the Commission's request to determine compliance.
- e. Staff Offices, Administrations may utilize their tracking system on an interim basis until the establishment of the enterprise system of record. All other tracking systems must be retracted once the VA-wide RA enterprise system is developed and implemented.

17. POLICY REVIEW

- a. In accordance with the requirements of Management Directive 715 (MD-715) and EEOC guidance, VA regularly reviews Department policies and procedures that have the potential to impact EEO. This review also considers potential impediments to the RA and PAS process including:
 - (1) Requests for RA and or PAS;
 - (2) Responses to such a request; and
 - (3) Implementation of RA and PAS.
- b. Specific items which are to be reviewed include:
 - (1) This RA and PAS policy and procedures handbook;
 - (2) Leave, telework, and scheduling policies and procedures;
 - (3) Those policies and procedures impacting the purchase or lease of equipment; and
 - (4) Those policies and procedures relating to the contracting or hiring of service providers for RA or PAS.
- c. Where a policy or procedure has any impact on EEO, (including impediments to the RA or PAS process) VA will create action plans per MD-715 requirements that may result in the modifications to identified problems within the policy or procedure.

18. REFERENCES.

- a. [Rehabilitation Act of 1973](#)
- b. [Americans with Disability Act \(ADA\) of 1990](#)
- c. [Americans with Disability Act Amendment Act \(ADAAA\) of 2008](#)

APPENDIX A: REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE PROGRAM MANAGEMENT

1. Service Types

- a. The RAC manages RA and PAS requests and coordinates services for all services types. Once the RAC determines the employee is a qualified individual with a disability, the employee and DMO should work directly with the RAC charged with coordinating the program to ensure the needs of the employee and program are met.
- b. The RAC provides support in obtaining the following services as approved RA and/or PAS.
- c. Available services include:
 - (1) Sign Language Interpreting: Support provided to individuals who are deaf or hard of hearing
 - (2) Workplace Assistance: Administrative support such as notetaking, escorts, and readers.
 - (3) Personal Assistance: Support for activities of daily living such as eating, dressing/undressing, and transferring.
- d. Initiating Services. The RAC will meet with each employee to discuss functional limits and the scope of services which will be provided based on individualized needs. Approved services will be documented for VA records.

2. Employee Preference

- a. VA utilizes vendor-assigned contractors for all Disability Services Program (DSP) service types. Accordingly, VA cannot guarantee that any employee will be serviced by the same contractor on a regular or on-going basis. To ensure that employees are consistently provided services, the RAC will work with the employee to develop a profile of needs and preferences. The RAC will also work with the employee to develop and maintain additional documentation, as needed. This may include, but is not limited to, a glossary of standard terms, inventory of specialized equipment, and instructions for the use of or assistance with specialized equipment. Any such profiles and documents will be provided to contractors before they begin working with an employee.
- b. It is important to note that, due to the nature of the services provided, the RAC will work with employees needing PAS to ensure that primary consideration is afforded regarding the employee's preferences for assigned contractors.

3. Scheduling Services

- a. The employee and/or the supervisor should contact the RAC directly to request and schedule the following services:

- (1) Sign Language Interpreting;
 - (2) Workplace Assistance; and
 - (3) Personal Assistance.
- b. Advance scheduling-preferably one (1) to two (2) weeks-is strongly encouraged. Although it is not possible to foresee every occasion for which services may be required, failure to schedule services in advance may result in the necessity to reschedule meetings until services are available. Any DSP request received with less than 72 hours' notice is not guaranteed.
- c. Several factors influence the scheduling of services. For example, any Sign Language Interpreting assignment that continues for longer than 1.5 hours, or is heavily technical, may require two interpreters. Similarly, back-to-back meetings, or meetings extended past the scheduled time, may result in limited or no transfer time for a service provider to move between assignments or no time for appropriate breaks. Accordingly, meetings or events should include sufficient rest periods and breaks to ensure the proper provision of services.
- d. Requests for services are scheduled on a first-come, first-served basis. The RAC may suggest other alternatives if overlapping or conflicting requests occur. Similarly, the RAC may suggest other alternatives when a program is filled, and/or meetings cannot be rescheduled. However, to avoid such conflicts, all clients will be requested to share their calendars with the RAC.
- e. It is important to note that services are not provided in place of employee attendance. Contractors will not be scheduled for meetings when an employee is on leave or when the employee is otherwise unavailable.

4. Meeting Extensions

- a. Employees must follow the schedule of services carefully to ensure the assigned contractor is not asked to work outside of the approved schedule. Failure to do so would obligate the Department to an unauthorized expenditure of government funds.
- b. If meeting or event is extending beyond the approved services time, the employee must notify the RAC and request an extension. The RAC will determine whether the service can be extended. If the services can be extended, the RAC alone will provide instructions to the vendor/assigned contractor.

5. Cancellations. Employees and supervisors should provide advanced notice of cancellations whenever possible to the RAC. Cancellations due to inclement weather will be determined on a case by case by the RAC.

6. Off-site Services. Services are available for off-site meetings when requested in advance. The employee and/or supervisor must notify the RAC regarding the specific services that are needed off-site and the exact location of facilities at the time of the request. The RAC will then work with the vendor to coordinate services.

7. Travel Services

- a. Services are available for employees on travel when requested in advance. The employee and supervisor must, at a minimum, notify the RAC specifying that the services are required for travel, the exact travel location, and the specific duration of the travel itinerary at the time of the request. The request will only be submitted after the employee's travel request has been approved by her/his supervisor or other appropriate authority, with assurances that the employee's travel request is submitted in accordance with VA Travel Regulations. Requests for services submitted before obtaining these approvals will not be processed. Requests submitted in accordance with these requirements will be processed by the RAC who will then work with the vendor to coordinate services.
- b. Except for PAS, services provided during official travel are limited to assistance with job-related tasks when the employee is attending, for example, conferences, meetings, training, and including overnight stays. To provide services, VA will pay the wages of a locally recruited contractor (i.e., a person resident in the location to which the employee is traveling). If a locally recruited contractor cannot be secured, VA will pay the travel expenses for a vendor-assigned contractor to accompany the employee, if such a contractor is available.
- c. For PAS, all approved support will be made available for official travel. If the employee's travel needs are different from the employee's needs during the workday (i.e., bathing, dressing/undressing), the employee must specify the services needed to the RAC when making the request.

8. Sign Language Interpreting (SLI) Specifications

- a. The following items are unique to SLI services:
 - (1) Vendor-assigned contractors must hold national interpreter certification and be certified members in good standing of the Registry of Interpreters for the Deaf (RID) and/or the National Association of the Deaf (NAD), and strictly adhere to the RID-NAD Code of Professional Conduct (CPC).
 - (2) Internal training is provided to clients, supervisors, and teams to ensure that all parties understand how to work with deaf employees and effectively create an inclusive environment.

- (3) It is essential to keep in mind that, generally, one interpreter can work 45-60 minutes of consecutive interpreting (i.e., speakers taking turns speaking at a normal pace) before needing a 15-minute break.

- b. There must be two interpreters for meetings over 1.5 hours long

9. Every effort should be made to include the deaf or hard of hearing employees in all necessary interactions/exchanges/meetings. The lack of an available sign language interpreter should not result in the exclusion of the deaf or hard of hearing employee, in these situations an alternative mode of communication will be utilized.

10. Failure to schedule interpreting services may result in the use of alternative forms of interpreting (e.g., dialing 711 to access Fed Relay or similar).

11. If the employee attends a conference or training program sponsored by an outside organization, the sponsoring organization is principally responsible for providing interpreters. It is the responsibility of the employee and supervisor to check with the sponsoring organization to see if interpreting services will be available. If not, a request containing all relevant information should be submitted to the VA RAC.

12. Workplace Assistant (WPA) Services Specifications

- a. Workplace Personal Assistance (WPA) Services include work task-related assistance, such as the use of a reader for business documents not otherwise available electronically, and/or a sign language interpreter for company meetings or training.

- (1) The following items are unique to WPA services:

- (a) Every effort should be made to include the employee using WPA in all necessary interactions/exchanges/meetings. The lack of an available WPA should not result in the exclusion of the employee as an alternative form of support should be utilized.
- (b) If WPA services are not available, the supervisor must determine whether to provide alternative assistance from among the members of her/his staff or reschedule the meeting/event/ training request for a later date when WPA is available.

13. EEOC Enforcement Guidance:

- a. Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (July 27, 2000):
<https://www.eeoc.gov/laws/guidance/enforcement-guidance-disability-related-inquiries-and-medical-examinations-employees>
- b. EEOC Enforcement Guidance on Reasonable Accommodations and Undue Hardship Under the Americans With Disabilities Act (revised October 17, 2002):

<https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada>

APPENDIX B: EXAMPLES OF REASONABLE ACCOMMODATIONS AND PERSONAL ASSISTANCE SERVICES

The types of actions that can be taken regarding RA/PAS can best be determined on a case-by-case basis, taking into consideration the employee, her/his specific disability and the resulting limitations, the essential duties of the job, the work environment, and the feasibility of the proposed accommodation. RA may include, but is not limited to, the following:

- 1. Modification of the Worksite Facilities:** Changes may include, but are not limited to, arranging files or shelves for accessibility; raising or lowering equipment and work surfaces to provide comfortable working heights; installing special holding devices on seats, desks, or machines; using Braille labels or other tactile cues for identification purposes; and installing special equipment such as telephone amplifiers.
- 2. Assistive Devices:** VA is authorized to purchase equipment or assistive devices if they are necessary to fulfill the official business of the VA. Equipment or assistive devices may not be provided if they are of a personal nature such as eyeglasses or hearing aids. In determining whether the purchase of equipment and assistive devices should be authorized, consideration should be given as to whether the device will enable the person with a disability to perform tasks, she/he would otherwise be unable to carry out. Consideration should also be given to determine whether a significant benefit would be an increase in the quantity, quality, or efficiency of the employee's work.
- 3. Captioning:** The process of converting the audio portion of video production or live event into text displayed on a television or film screen or computer monitor. The captions are typically white upper-case against a black background and, when pre-recorded, presented live as the show is broadcasted. They may also be permanently visible (open-caption) or viewable only through a decoder (closed-caption) attached to or built into the television.
- 4. Computer- Aid Real Time Translation (CART):** A form of captioning which provides a word-for-word transcription of what is being said. It may be read on a laptop computer or projected on a television screen or, for a broad audience, onto a full-size screen.
- 5. Flexible Leave Policies:** VA has authority to adopt flexible leave policies, subject to appropriate laws and regulations that will accommodate employees with disabilities.
- 6. Adjusting Work Schedules or Work Locations:** Managers and DMO are encouraged to approve flexible or altered work scheduled tour of duty for the position for reasons associated with their disability (examples include the provision for medical treatments, need for rest periods, or difficulty getting to work). Use of VA's telework program is also encouraged when employees require the use of alternative work locations. For more information please review [\(https://vaww.va.gov/ohrm/Telework/\)](https://vaww.va.gov/ohrm/Telework/)

- 7. Restructuring Jobs:** Job restructuring is the primary means by which an employee with a disability can be reasonably accommodated. DMOs should consult with the RAC to discuss changes that can be made to enable the person with a disability to perform the job.
- 8. Training:** VA will accommodate and assume the costs incurred when an employee with a disability attends training. VA will also arrange RA and PAS needs for approved courses, whether held at the VA or other locations, including the arrangement of transportation to and from the training site.
- 9. Personal Care-Related:** PAS may include personal care-related assistance such as helping an employee to access the restroom, eat or drink at work, assistance with mobility devices, entering and existing facilities, or travel for business purposes.

APPENDIX C: REASONABLE ACCOMMODATION RESOURCES**1. [U.S. Equal Employment Opportunity Commission](#)**

(800) 669-3362 (Voice), (800) 800-3302 (TTY)

The EEOC's Publication Center has many free documents regarding Title I employment provisions of the ADA, including both the statute, 42 U.S.C. § 12101 et seq. (1994), and the regulations, 29 C.F.R. § 1630 (1997). Also, the EEOC has published a great deal of basic information about RA and undue hardship. The two main sources of interpretive information are: (1) the Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. §§ 1630.2(o), (p), 1630.9 (1997); and (2) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act III, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The Manual includes a 200-page Resource Directory, including Federal and state agencies, and disability organizations that can assist in identifying and locating RA.

2. [Job Accommodation Network \(JAN\)](#)

(800) 232-9675 (Voice/TTY)

A service of the Department of Labor's Office of Disability Employment Policy, JAN can provide information, free-of-charge, about many types of RA.

3. [ADA Disability and Business Technical Assistance Centers \(DBTACs\)](#)

(800) 949-4232 (Voice/TTY)

The DBTACs consist of ten federally funded regional centers that provide information, training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance, and places special emphasis on meeting the needs of small businesses. The DBTACs can make referrals to local sources of expertise in RA.

4. Registry of Interpreters for the Deaf

333 Commerce Street Alexandria, VA 22314

(703) 838-0030 (Voice), (703) 838-0459 (TTY), (703) 838-0454 (Fax)

The Registry of Interpreters for the Deaf, Inc. (RID), is a national membership organization of professionals who provide sign language interpreting/translation services for Deaf and Hard of Hearing persons. It is the goal of RID to promote the profession of interpreting and translation of both American Sign Language and English. RID's mission is to provide international, national, regional, state, and local forums by providing an organizational structure for the continued growth and development of the professions of interpretation and translation of American Sign Language and English.

The RID national office has at its disposal a vast array of informational resources on the field of interpreting, including papers on Interpreting Standards and Practices and How to Hire and Work with an Interpreter.

5. [RESNA Technical Assistance Project](#)

(703) 524-6686 (Voice), (703) 524-6639 (TTY)

RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, can refer individuals to projects in all 50 states and the six territories, offering technical assistance on technology-related services for individuals with disabilities. Services may include:

- a. Information and referral centers to help determine what devices may assist a person with a disability (including access to large databases containing information on thousands of commercially available assistive technology products),
- b. Centers where individuals can try out devices and equipment,
- c. Assistance in obtaining funding for and repairing devices and
- d. Equipment exchanges and recycling programs.

6. [USDA TARGET Center](#)

1400 Independence Avenue Room 1006-S Washington, DC 20250-9876

(202) 720-2600 (Voice/TTY), (202) 720-2681 (Fax)

The Target Center has a wide variety of assistive devices available for Federal employees to examine and test.

7. [Computer/Electronic Accommodations Program \(CAP\)](#)

(703) 681-8813 (Voice), (703) 681-0881 (TTY)

The Department of Defense (DOD) established CAP in 1990 to eliminate employment barriers for its employees with disabilities. The mission of CAP is to provide real solutions for real needs to ensure that people with disabilities have equal access to the information, environment, and opportunities in the Federal Government. CAP provides guidance regarding assistive technology at no charge to non-DoD agencies. As of 1 Oct 2020, CAP will no longer provide assistive technology equipment and software to non-DoD agencies.

8. [Rehabilitation Services Administration](#)

(800) 827-5327 (Voice), (800) 437-0833 (TTY)

Rehabilitation Services Agencies are state agencies that provide support for the employment, economic self-sufficiency, and independence of individuals with disabilities. Local phone books should list them under state services and sometimes they are listed by Vocational Rehabilitation Offices. Some people who have minimal vision use Braille. This organization can convert documents to Braille. After arranging for payment, documents are sent to the Services for the Visually Impaired as an e-mail attachment and the Braille copy will be mailed to the VA.

9. [National Captioning Institute](#)

1900 Gallows Road, Suite 3000 Vienna, VA 22182

(703) 917-7600

Federal law requires that all videos include captions, preferably open captions. The National Captioning Institute can add captions to videos.

10. [National Association of the Deaf \(NAD\)](#)

8630 Fenton Street, Suite 820 Silver Spring, MD 20910

(301) 587-1788

The mission of the National Association of the Deaf is to preserve, protect and promote the civil, human and linguistic rights of deaf and hard of hearing people in the United States of America.

APPENDIX D: SAMPLE DUTIES AND RESPONSIBILITIES FOR REASONABLE ACCOMMODATION COORDINATORS

SAMPLE DUTIES AND RESPONSIBILITIES

Position Title & Grade: Miscellaneous Administration and Program Specialist,

Multi-Discipline GS-301/0201/0343 – 11/12/13

Primary Purpose: The primary purpose of the position is to apply accepted reasonable accommodation laws, principles, and standard methods in addressing requests from qualified employees or applicants for employment with disabilities, thus allowing them to fully participate in the workforce. Coordinates between managers, employees, and applicants to ensure interactivity during the process and advises all parties involved. Also serves as a reviewer of medical documentation to determine requestors' coverage under the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. The position covers title 5, title 38 and title 38 positions.

Major Duties

Reasonable Accommodation (100 percent)

Advises higher level management officials, DMOs, supervisors, employees, and applicants on relevant laws, regulations, procedures, and processes allowing employees or applicants for employment, with a physical or mental impairment as defined by the ADAAA, to fully participate in the application process, perform essential job functions, and enjoy equal benefits and privileges of employment. The incumbent conducts studies, analyzes unique and often complex issues, applies equal employment opportunity (EEO) case law, develops solutions, and formulates recommendations that are effective. Oversees the processing of all requests for accommodation to ensure that prescribed timeframes are met, and procedures followed, with little delay. Advises employees, applicants, and or management officials on completion of forms/documents and advises them when additional action is needed. Researches and recommends structural alterations, adaptive furniture or equipment, and solutions to meet the needs of the requestor and the organization. The incumbent also assists the organization with securing funding for reasonable accommodations. The incumbent works with management officials, employees, and other relevant staff to provide accommodations or interim workplace adjustments. Ensures requests for reasonable accommodation are processed as per instructions contained in VA Handbook 5975.1, Processing Requests for Reasonable Accommodation and Personal Assistance Services from Employees and Applicants with Disabilities. Researches and writes responses to inquiries and develops and delivers briefings, status reports, and correspondence to management (removing any personally identifiable or health information) to foster an understanding of reasonable accommodation. Performs benchmarking on reasonable accommodations in the Federal Government. Keeps abreast of changes, modifications, and revisions to laws, regulations, and policies pertaining to the Rehabilitation Act of 1973 and modifications to existing Federal Sector implementation of this Act, such as 29 Code of Federal Regulations, Part 1614. Tracks and reports all requests for reasonable accommodation and the disposition of those

requests by assisting the requestor and management in completing the required forms and the checklist. Monitors and analyzes processes and procedures and regularly reports qualitative and quantitative data regarding reasonable accommodations.

**APPENDIX E: DESIGNATION LETTER FOR ALL ASSIGNED REASONABLE
ACCOMMODATION COORDINATORS (RACS)**

Department of Veterans Affairs

Memorandum

Date: January 1, 2019

From: Staff Office/Facility Director's Full Name, Official Title, Staff Office/Facility

Subj: New Appointment as a Reasonable Accommodation Coordinator (RAC)

To: Employee's Full Name, Official Title, Staff Office/Facility

You are hereby designated as the following designation, effective immediately:

Reasonable Accommodation Coordinator

Alternate Reasonable Accommodation Coordinator

National Reasonable Accommodation Consultant

You are required to complete the following Talent Management System Courses within twenty (20) business days of receipt of this letter and annually thereafter:

Managing Requests for Reasonable Accommodations in VA (VA4219926)

Reasonable Accommodation for the Federal Workplace (NFED 3858000)

For initial RAC appointees only, within the first forty (40) business days under this designation, you will receive on-the-job training from your supervisor, team lead, or designated official to familiarize yourself with the information contained in references (a) through (d) and all associated duties/responsibilities of a RAC. During this time, you will not be assigned your own cases to process unless your supervisor, team lead, or designated official receives concurrences from me.

The designation remains in effect until revoked by me or a designated management official or you transfer to another position within/outside the VA.

Director's Signature Block