

**U.S. Department of Agriculture  
Marketing and Regulatory Programs  
Agricultural Marketing Service  
Animal and Plant Health Inspection Service**

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<b>ISSUANCE TYPE:</b>	DIRECTIVE
<b>NUMBER:</b>	MRP 4300.2
<b>TITLE:</b>	Reasonable Accommodations Program
<b>DATE ISSUED:</b>	09/13/2024
<b>ORIGINATING OFFICE:</b>	Marketing and Regulatory Programs / Human Resources Division
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**1. PURPOSE**

This Directive establishes Marketing and Regulatory Programs (MRP) policy, procedures, and guidance for employees and applicants with disabilities eligible to receive a reasonable accommodation, and for employees and applicants seeking a religious accommodation.

It provides procedures to implement the DR 4300-008, Reasonable Accommodations and Personal Assistance Services for Employees and Applicants with Disabilities, along with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), and relevant case law.

Detailed information, guidelines and procedures regarding the Reasonable Accommodations Program are available to supervisors and employees in the Human Resources Desk Guide, Subchapter 4300, Reasonable Accommodations Program at the following website United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) [Human Resources Desk Guide](#) (HRDG).

**2. SPECIAL INSTRUCTIONS AND REPLACEMENT HIGHLIGHTS**

- a. This Directive has been revised.

The revisions included in this Directive are as follows:

- (1) Section 3, to include the Background.
- (2) Section 4 b, Revised to comply with the Departmental Regulation 4300-08, Reasonable Accommodations and Personal Assistance Services for Employees and Applicants with Disabilities, October 27, 2020.
- (3) Section 4 b, (1) and (2), Added Religious Accommodations.
- (4) Section 5 f, Added the definition of Religious Accommodations.
- (5) Section 5 h, Added undue hardship for religious accommodations.
- (6) Section 6, Added acronyms.
- (7) Section 8 a (12), Added information on Personal Assistance Services, as required by the Equal Employment Opportunity Commission (EEOC).
- (8) Section 8 b, to include religious accommodation information and the process for requesting a religious accommodation.
- (9) Section 13, Added Records Management.

- b. This Directive is effective immediately.
- c. This Directive supersedes MRP 4300.2, Reasonable Accommodations Program, dated 03/31/2011.
- d. This Directive is in force until canceled or superseded.

### **3. BACKGROUND**

MRP is committed to an inclusive workplace environment where:

- a. Disabled employees and applicants for employment can quickly and easily request and obtain reasonable accommodations to reach their full potential.
- b. Employees and applicants may follow their religious beliefs or practices.

### **4. AUTHORITIES AND REFERENCES**

This Directive must be applied in conjunction with:

- a. Reasonable Accommodations
  - (1) [42 United States Code \(U.S.C\) § 12101 et. seq, Americans with Disabilities Act](#), as amended.
  - (2) [5 U.S.C. 552a, Privacy Act of 1974.](#)
  - (3) [29 U.S.C. 791, Employment of Individuals with Disabilities.](#)
  - (4) [Pregnancy Discrimination Act of 1978](#) (October 31, 1978).
  - (5) [Pregnant Workers Fairness Act](#)
  - (6) [Executive Order \(E.O.\) 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation.](#)
  - (7) [5 Code of Federal Regulations \(CFR\) Part 297, Privacy Procedures for Personnel Records.](#)
  - (8) [29 CFR Chapter 14, Part 1614, Federal Sector Equal Employment Opportunity.](#)

- (9) [29 CFR Chapter 14, Part 1614.203, Rehabilitation Act.](#)
- (10) [29 CFR Chapter 14, Part 1630, Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities.](#)
- (11) [USDA Department Regulation \(DR\) 4300-008, Reasonable Accommodations and Personal Assistance Services for Employees and Applicants with Disabilities.](#)

b. Religious Accommodations

- (1) [42 U.S.C. 2000 et. seq, Title VII of the Civil Rights Act of 1964.](#)
- (2) [29 CFR Part 1605, Guidelines on Discrimination Because of Religion.](#)

## 5. DEFINITIONS

For the purpose of this directive, the following definitions are provided.

- a. **Disability.** A physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.
  - (1) “Record of” means that the person has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities, even though the person does not currently have a disability. For example, a person who undergoes treatment for cancer then returns to work. Although the cancer may be in remission, they have a record of having had it.
  - (2) “Regarded as” means that the person either:
    - (a) Has an impairment that does not substantially limit a major life activity;
    - (b) Has an impairment that substantially limits a major life activity only as a result of the attitudes of others toward them; or
    - (c) Does not have any impairment but is treated by an entity as having an impairment.
  - (3) Pregnancy is not considered a disability, but the Pregnant Workers Fairness Act requires agencies to provide reasonable accommodations to

an employee's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the agency an undue hardship.

- b. Major Life Activities. In general, major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
  - (1) Under the ADAAA, "major life activities" encompasses major bodily functions which include, but are not limited to, functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive function.
- c. Qualified Individual with a Disability. An individual with a disability is qualified if they: 1) satisfy the requisite skill, experience, education, and other job-related requirements of the position; and 2) can perform the essential functions of the position, with or without reasonable accommodation, and without posing a threat of substantial harm to others or to themselves.
- d. Reasonable Accommodation. There are three categories of reasonable accommodations:
  - (1) Change or adjustment of a job application process.
  - (2) Change or adjustment to the work environment, or to the manner or circumstances under which the job held or desired is customarily performed.
  - (3) Change or adjustment that helps an employee with a disability to enjoy equal benefits and privileges of employment. This includes, but is not limited to:
    - (a) Access to restrooms, credit unions, and cafeteria;
    - (b) Recreational activities;
    - (c) Social and off-site activities; and
    - (d) Training opportunities.

- e. Religion. Title VII of the Civil Rights Act of 1964 caselaw defines "religion" to include traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism; this also includes religious beliefs that are new, uncommon, not part of a formal church or sect, or only held by a small number of people.
- f. Religious Accommodation. Any adjustment to the work environment that will allow an employee or applicant to practice his or her religion. The need for religious accommodation may arise where an individual's religious beliefs, observances or practices conflict with a specific task or requirement of the position or an application process.
- g. Targeted Disabilities. A disability designated as a "targeted disability or health conditions" on OPM SF-256 or a disability falling under one of the first 12 categories of disability listed in Part A of question 5 of the EEOC's Demographic Information on Applicants Form. They include the sensory related disabilities of deafness and blindness as well as mental illness and retardation; and mobility impairing disabilities such as missing limbs, partial paralysis, complete paralysis and deformed limbs or distortion of the spine.
- h. Undue Hardship.
  - (1) Reasonable Accommodation. Undue hardship means that a specific accommodation would require significant difficulty or expense. Undue hardship is always determined on a case-by-case basis, considering factors that include the nature and cost of the accommodation requested and the impact of the accommodation on the operations of the agency. Agencies do not have to provide accommodations that would impose an undue hardship on the operation of the agency.
  - (2) Religious Accommodation. Agencies must accommodate religious practices absent an undue hardship on the conduct of business. Under Title VII, in applying undue hardship, agencies must take into account the relevant factors in each specific case, including the particular accommodation requested and its particular impact in light of the nature, size, and operating cost of the agency.

## 6. ACRONYMS/ABBREVIATIONS

- a. ADA – Americans with Disabilities Act
- b. ADAAA – Americans with Disabilities Act Amendments Act of 2008

- c. AMS – Agricultural Marketing Service
- d. APHIS – Animal and Plant Health Inspection Service
- e. CFR – Code of Federal Regulations
- f. DR – Department Regulation
- g. EEOC – Equal Employment Opportunity Commission
- h. HR – Human Resources
- i. HRD – Human Resources Division
- j. MRP – Marketing and Regulatory Programs
- k. PAS – Personal Assistance Services

## **7. SCOPE**

The MRP Reasonable Accommodations Program provides services to all employees in the following Mission Area agencies: the Animal and Plant Health Inspection Service (APHIS) and the Agricultural Marketing Service (AMS).

Other United States Department of Agriculture (USDA) agencies utilizing the services of the MRP Reasonable Accommodations Program will adhere to the policy, procedures and guidance established in this directive. This directive covers all APHIS and AMS employees, and all employees of other USDA agencies utilizing the services of the MRP Reasonable Accommodations Program.

## **8. POLICY**

It is MRP policy that:

- a. Reasonable Accommodations
  - (1) Reasonable accommodations remove workplace barriers that prevent individuals with disabilities from applying for employment, and employees from performing essential job functions.
  - (2) Any employee (full-time, part-time and probationary) or applicant with a disability, as defined by the ADAAA, may request and receive a reasonable accommodation at any time.

- (3) Family members are not included in this coverage; this includes employees or applicants requesting accommodations to care for a family member. Contractors should contact their employer for guidance regarding reasonable accommodations.
- (4) An agency will provide a reasonable accommodation unless it causes undue hardship to the agency. An undue hardship would significantly disrupt operations or pose a significant financial burden to the agency. When denying an accommodation based on cost, all financial resources available to the agency as a whole must be considered, excluding those designated by statute for a specific purpose that does not include reasonable accommodation.
- (5) Requests for a new supervisor will not be considered as a reasonable accommodation in most circumstances. However, adjustments in supervisory methods, changes in communication style, and participation in conflict resolution can be recommended.
- (6) Granted reasonable accommodations may be reevaluated at any time due to the following reasons: responsibilities of the job duties/position description change; staffing level change; or the employee's condition gets worse or better.
- (7) The ADAAA does not entitle a qualified individual with a disability to an accommodation of choice, but rather to an "effective accommodation."
- (8) A reasonable accommodation will not remove an essential function of the employee's position, nor alter performance standards of the employee's position.
- (9) Sufficient resources will be provided to ensure efficient and successful processing of requests for reasonable accommodations. If a decision maker or Program Area lacks the financial resources to provide a reasonable accommodation, the decision maker or Program Area is expected to escalate the request to the Deputy Administrator or Administrator of their agency to determine if additional funding is available prior to any request for reasonable accommodation being denied due to financial reasons.
- (10) MRP Reasonable Accommodations Program will maintain the records related to an employee's request for accommodation in accordance with applicable Federal regulations. MRP Reasonable Accommodations Program will ensure that medical records are kept confidential and maintained in files separate from the individual's official personnel file.

- (11) Exceptions to the confidentiality as outlined in DR-4300-008 include the following:
- (a) Supervisors and managers are entitled to relevant information that is necessary to understand the person's restrictions and limitations related to the essential job functions;
  - (b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or assistance in evacuation;
  - (c) Government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act;
  - (d) When a Mission Area or agency medical officer consults with the person requesting a reasonable accommodation regarding the interpretation of medical documents;
  - (e) In certain circumstances related to litigation, worker's compensation, or insurance carriers, in accordance with the Equal Employment Opportunity Commission (EEOC) regulation; and
  - (f) When otherwise authorized by law.
- (12) Federal agencies are required to provide Personal Assistance Services (PAS) to individuals who need them because of certain disabilities.
- (a) PAS are non-medical services that help individuals who, because of targeted disabilities, require assistance to perform basic activities of daily living, like eating and using the restroom.
  - (b) Requests for PAS will follow reasonable accommodation procedures and the funding process should be discussed with the Reasonable Accommodations Specialist.
- (13) Supervisors and employees are required to complete mandatory training related to reasonable accommodations through AgLearn or per request through the MRP Reasonable Accommodations Program.
- (14) Centralized funding is available for reasonable accommodation purchases (e.g., software, sit/stand workstations, etc.) and interpreting services for APHIS employees. This should be discussed with the Reasonable Accommodations Specialists during the reasonable accommodations process. For AMS and other USDA agencies utilizing the services of the

MRP Reasonable Accommodations Program, the funding is provided by that Agency.

- (15) Accommodation requests that violate the facility or General Services Administration rules, such as air purifiers, humidifiers, heaters or other electrical equipment, or making alterations to the facility, may not be granted.
- (16) MRP Human Resources Division (HRD) will ensure that all vacancy announcements include a statement regarding reasonable accommodations to ensure compliance with Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities [Federal Register: Increasing Federal Employment of Individuals With Disabilities](#), and to support the Office of Personnel Management initiatives to increase the representation of people with disabilities in the Federal workforce.
- (17) Reasonable accommodations do not excuse an employee from disciplinary action or from having to adhere to policies relating to performance and conduct.
- (18) If an employee submits a request for a reasonable accommodation, after receiving notification of placement on a Demonstration Opportunity (DO) due to unacceptable performance, the DO must be placed on hold by the supervisor with notification to the assigned Labor Management and Employee Relations Specialist. The assigned Reasonable Accommodations Specialist will determine eligibility and assist with seeking an accommodation that may assist the employee in performing the specific essential job functions resulting in the DO.

b. Religious Accommodations

- (1) Any employee (full-time, part-time and probationary) or applicant may request and receive a religious accommodation at any time.
- (2) Family members are not included in this coverage. Contractors should contact their employer for guidance regarding religious accommodations.
- (3) Employees and applicants may obtain exceptions to rules or policies to follow their religious beliefs or practices if it does not cause an undue hardship or impair workplace safety or security.

- (4) Accommodations for religious beliefs are determined on a case-by-case basis, and the accommodation cannot remove the essential functions of the employee's current position.
- (5) Each request for religious accommodation will take into consideration an employee's position duties and how the work function conflicts with an employee's religious belief.
- (6) Granted religious accommodations may be reevaluated at any time due to the following reasons: changes in safety protocols and/or requirements; responsibilities of the job duties/position description change; or staffing level change.
- (7) Supervisors may grant accommodations for religious reasons but still refuse to grant them for secular reasons.
- (8) Social, political, or economic philosophies, or personal preferences, are not "religious" beliefs under Title VII of the Civil Rights Act of 1964.
- (9) MRP Reasonable Accommodations Program will maintain records related to the employee's request for accommodations in accordance with applicable Federal regulations. Files will be kept confidential and maintained separate from the individual's official personnel file.

## **9. EXCEPTIONS**

See Policy, section 8, Reasonable Accommodations, item a. (11).

## **10. ROLES AND RESPONSIBILITIES**

Decision makers are those individuals or offices charged with the responsibility of making decisions regarding various aspects of the process. These are four possible decision makers: Reasonable Accommodations Specialist, selecting/interviewing official, first-line supervisor, and the senior level official.

- a. The Reasonable Accommodations Specialist receives reasonable accommodation and religious accommodation requests and determines eligibility.
- b. The selecting/interviewing official will make the decision regarding the reasonable accommodation requested for the interview process or for a new hire prior to reporting for duty.

- c. The first-line supervisor will make the determination regarding a reasonable accommodation or religious accommodation request.
- d. The senior level official will make the determination for a request for reconsideration submitted by an employee who received an alternative, or a denied reasonable accommodation or religious accommodation. Senior level official may be the second-level supervisor or designee.

In the event these individuals designated as “decision makers’ are unable to fulfill this responsibility, the request for accommodation shall be forwarded to an appropriate office or individual.

The implementation of the policy and procedures as established by this Directive requires the responsibilities of the following individuals and/or groups:

a. Employee or Applicant

- (1) The employee or applicant is responsible for requesting a reasonable accommodation.
  - (a) The request may be made on behalf of the employee or applicant by someone else.
  - (b) The request for an accommodation may be made orally or in writing at any time. If orally, the employee will be asked to complete a Reasonable Accommodations Packet which includes instructions and the following forms for recordkeeping purposes: AD-1163, Confirmation of Request for Reasonable Accommodation; Medical Checklist; and Medical Release.
  - (c) The request does not need to specifically use the term “reasonable accommodations.”
  - (d) The employee or applicant is not required to have a particular accommodation in mind before making a request.
  - (e) The request may be made to the requester’s supervisor or selecting official, the Reasonable Accommodations Specialist, the Office of Civil Rights Diversity and Inclusion, the Disability Program Manager, or other appropriate persons.
- (2) If an applicant for employment needs an accommodation to allow them to participate in the application process, they should contact the Human Resources Division at the contact number or email listed on the job announcement as quickly as possible. Requests for an accommodation to

allow participation in the interview process should be directed to the person arranging or conducting the interview.

- (3) The employee is encouraged to request a reasonable accommodation before their condition has a negative impact on performance or conduct at work.
- (4) The employee must provide sufficient information and documentation, such as a description of the accommodation requested, and an explanation of how it would enable them to perform the job or assist them in the selection process.
- (5) When requested, the employee must provide relevant medical information related to the functional impairment and the requested accommodation when the disability and/or need for accommodation is not obvious.
- (6) The employee must participate in the interactive process with their supervisor.

b. The Supervisor will:

- (1) Ensure any medical documentation received is provided to the Reasonable Accommodations Specialist and not secured within an employee's personnel file/records.
- (2) Identify the essential functions of the employee's position.
- (3) Discuss with employee their limitations and needs.
- (4) Work with the employee and Reasonable Accommodations Specialist, if needed, to determine possible effective accommodation(s).
- (5) Make decision about the actual accommodation and, if appropriate, implement the accommodation.
- (6) Provide justification for denying an accommodation request.
- (7) Be flexible and abide by confidentiality requirements.
- (8) Contact assigned Labor Management and Employee Relations Specialist, for guidance on notifications and negotiations with the union, if the requested accommodation will affect working conditions of an employee(s) covered by a collective bargaining agreement.

- c. The Reasonable Accommodations Specialist will:
- (1) Send the employee appropriate forms and information regarding the process as well as requests for medical information, if needed, to determine if the employee has a qualifying disability and is eligible to receive a reasonable accommodation.
  - (2) Enter the request in the internal reasonable accommodations database and assign a request number.
  - (3) Review medical documentation to determine if the employee has a disability as defined by the ADA, and if needed, consult with the appropriate medical officer.
  - (4) Provide written communication to the employee and first-line supervisor indicating whether or not the employee has a qualifying disability and is eligible to receive an effective accommodation.
  - (5) Facilitate and assist the supervisor and employee with the interactive process.
  - (6) Assist the employee and manager if the accommodation requires assistive technology.
- d. The Human Resources Specialist, listed on the vacancy announcement for individuals seeking employment, will:
- (1) Receive requests from applicants for employment needing assistance with the application process.
    - (a) Refer applicants to the MRP Reasonable Accommodations Program mailbox at [RARRequest@usda.gov](mailto:RARRequest@usda.gov) or contact a Reasonable Accommodations Specialist.
- e. The Labor Management and Employee Relations Specialist will:
- (1) Refer questions regarding medical information and reasonable accommodations to the Reasonable Accommodations Specialists;
  - (2) Assist the supervisor in cases involving employee performance or misconduct issues that may be due to a disability or medical condition and informs the Reasonable Accommodations Specialist; and

- (3) Provide assistance, as requested, in cases involving possible reassignment, removal, or other action because of the employee's inability to perform the essential functions of their job with an accommodation.

## 11. PROCEDURES

The following procedures have been established by this Directive:

### a. Reasonable Accommodation

Because a reasonable accommodation provides an opportunity for the employee to perform the essential functions of the job, or access a benefit or privilege of employment, and allows an applicant access to the application process, it is expected that the accommodation shall be provided as soon as reasonably possible.

The requested accommodation should be granted, modified, or denied by the supervisor within 30 business days of the initial request. Failure to provide an accommodation in a prompt manner may result in a violation of the Rehabilitation Act. Employees must be notified of the reason for the delay, including extenuating circumstances that justify the delay.

All parties should recognize that the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information and/or medical documentation. This will include if an employee's, or applicant's, health professional fails to provide needed documentation in a timely manner.

When all the facts and circumstances are known and it is reasonably possible that the employee will be entitled to an accommodation, but the accommodation cannot be provided immediately, the supervisor will provide the employee with an interim accommodation that allows the employee to perform some, or all, of the essential functions of the job, absent undue hardship.

MRP Mission Area and other USDA agencies utilizing the services of the MRP Reasonable Accommodations Program will adhere to the following process to address requests for reasonable accommodations:

### (1) Initial Request for Employees

- (a) Employees should make their initial request by sending an email to the MRP Reasonable Accommodations Program mailbox at

[RARequest@usda.gov](mailto:RARequest@usda.gov), or contact a Reasonable Accommodations Specialist to receive a Reasonable Accommodations Packet. The packet includes: information regarding the process; AD-1163, Confirmation of Request for Reasonable Accommodation; Medical Checklist; and Medical Release Form.

- (b) If an employee makes the initial request to their supervisor, the supervisor must immediately refer the employee to, or send an email to, the MRP Reasonable Accommodation Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov), or contact a Reasonable Accommodations Specialist.
- (c) If a supervisor believes an employee may need a reasonable accommodation, the supervisor should send an email to the MRP Reasonable Accommodation Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov), or contact a Reasonable Accommodations Specialist. Subsequently seeking a reasonable accommodation is strictly voluntary. The Reasonable Accommodations Specialist will contact the employee to determine interest in seeking a reasonable accommodation.
- (d) If an employee needs a temporary reasonable accommodation for no more than 30 calendar days (e.g., recovering from surgery, medical procedure, etc.), the supervisor may grant the request without going through the MRP Reasonable Accommodations Program.

(2) Initial Request for Applicants and New Hires

- (a) For applicants, the Human Resources Specialist assigned to the vacancy announcement will refer the individuals to the MRP Reasonable Accommodations Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov). Applicants should be instructed to state "Applicant RA Request" in the subject line of the email.
- (b) If an applicant is seeking a reasonable accommodation to assist with applying for a position, the Reasonable Accommodations Specialist will notify the Human Resources Specialist assigned to the vacancy announcement if the applicant is eligible, and if the requested accommodation can be granted.
- (c) If an individual selected as a new hire needs a reasonable accommodation prior to reporting for duty in the new position, the selecting official or Human Resources Specialist must refer the individual to the MRP Reasonable Accommodations Program

mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov). Individuals should be instructed to state "New Hire RA Request" in the subject line of the email.

(3) Forms

- (a) The forms for initiating the reasonable accommodation request (AD-1163, Confirmation of Request for Reasonable Accommodation; MRP 31, Medical Checklist; and MRP 32, Medical Release Form) may be duplicated and returned upon completion to the MRP Reasonable Accommodations Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov). The Reasonable Accommodations Specialist will assign the RA Request Number referred to on the AD-1163, once received.
- (b) Employees and applicants must return the completed forms and medical documentation within 10 business days to the MRP Reasonable Accommodations Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov), or faxed to the number provided in the Reasonable Accommodations Packet. Extensions, with limited additional days, may be granted upon request.

(4) Medical Documentation and Eligibility

- (a) When medical documentation is required to support the reasonable accommodation request, it should only include the individual's disability, limitations/restrictions relevant to the requested reasonable accommodation, and duration of the medical condition. It should include how the requested accommodation, if any, will assist the individual to apply for a job, perform essential functions of the job, or enjoy the benefits and privileges of the workplace.
- (b) Upon receipt, the Reasonable Accommodations Specialist reviews the medical documentation to determine if the employee has a disability as defined by the ADAAA. Relevant supplemental medical information may be requested if the first submission was insufficient to make a determination. Received medical information may be reviewed by a medical expert of the agency's choosing at the agency's expense.
- (c) Once a determination of eligibility can be made upon receipt of the medical documentation and any requested information, the eligibility letter will be issued to the employee and a copy sent to the supervisor within 2 business days.

- (d) For applicants seeking reasonable accommodations to assist with the interview process an eligibility letter will be issued to the selecting official within 2 business days.
- (e) The purpose of the eligibility letter is to verify the employee is eligible for a reasonable accommodation and states what is being sought by the employee. The final decision regarding the request will be provided in writing by the supervisor or deciding official after the interactive process.

(5) Interactive Process

- (a) Determining what accommodations are effective requires an interactive process discussion between the supervisor, employee or applicant and, only when necessary, any other appropriate personnel.
- (b) Resources to assist with the interactive process or in identifying and evaluating possible accommodations include:
  1. Reasonable Accommodations Specialist;
  2. Member of employee's family;
  3. Rehabilitation Counselor;
  4. USDA, [Technology & Accessible Resources Give Employment Today \(TARGET\) Center](#);
  5. [Job Accommodations Network](#) web site;
  6. [U.S. Equal Employment Opportunity Commission](#) web site, including:
    - a. [EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act](#) (July 27, 2000)
    - b. [EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act](#) (revised October 17, 2002)

- (c) The interactive process must take place within 7 business days upon receipt of the eligibility letter, absent extenuating circumstances. When possible, the supervisor should do it earlier rather than waiting for the full 7 business days.
- (d) Prior to the interactive process, the supervisor should:
  - 1. Contact the assigned Reasonable Accommodations Specialist with questions regarding the interactive process; and
  - 2. Analyze the employee's job functions to establish the essential and non-essential (marginal) job tasks.
- (e) The assigned Reasonable Accommodations Specialist should participate in the interactive process to facilitate the discussion. Decisions regarding the accommodation request should not be made during the interactive process.
- (f) During the interactive process, the supervisor, employee, and Reasonable Accommodations Specialist will identify and consider:
  - 1. The essential functions of the employee's job;
  - 2. The employee's functional limitations and needs; and
  - 3. Possible accommodations to address the limitations and needs identified above.

(6) Decision Regarding Request

- (a) After the interactive process, the supervisor must notify the employee in writing of their decision within 7 business days, absent extenuating circumstances which must be relayed to the employee.
- (b) Program Areas with an internal policy requiring a senior level official to review the decision prior to notifying the employee, must provide a response to the supervisor within 5 business days in order to ensure a timely response to the request. If this policy delays the written decision to the employee, the supervisor must inform the employee of the delay.

- (c) The assigned Reasonable Accommodations Specialist must review the proposed decision prior to the final written decision being issued to the employee.
- (d) If the supervisor is granting the requested accommodation or an alternative accommodation, the supervisor will:
  - 1. Submit the decision in written format or complete the AD-1164, Reasonable Accommodation Information Reporting Form;
  - 2. Make sure to identify the expectations;
  - 3. Establish a timetable for implementation; and
  - 4. If offering an alternative accommodation, include employee's options to request reconsideration of the decision to the next level supervisor and employee's appeal rights.
- (e) For granted accommodations related to specific items (e.g., assistive software, sit/stand workstation, amplifiers, etc.), APHIS has centralized funds for reasonable accommodation related purchases. APHIS supervisors and/or employees will contact the Reasonable Accommodations Specialist to submit the purchase request, or the supervisor may purchase the items through program funds. For AMS and other USDA agencies utilizing the services of the MRP Reasonable Accommodations Program, the employee's supervisor shall purchase these items through agency or program funds.
- (f) If the supervisor is denying the request, the supervisor will:
  - 1. Submit the decision in a written format or complete the AD-1165, Denial of Reasonable Accommodation Request Form;
  - 2. State the reason for the denial; and
  - 3. Include employee's options to request reconsideration of the decision to the next level supervisor and employee's appeal rights.

- (g) The assigned Reasonable Accommodations Specialist must receive a copy of the final written decision for record purposes.
- (h) Should there be no effective accommodation that can be granted without causing undue hardship, the supervisor can deny accommodations.
- (i) If an employee cannot be accommodated in their position of record, consideration for voluntary reassignment to another position of equal, or lower grade, is the accommodation of last resort. (See Section 14).

(7) Temporary and Expired Accommodations

- (a) Temporary accommodations may be needed when the disability, medical condition or impairment is temporary but sufficiently severe enough to entitle the employee to an accommodation.
- (b) The duration of the employee's disability, medical condition or impairment determines the length of the accommodation.
- (c) The supervisor must notify the employee in writing that the accommodation is temporary with the specific expiration date.
- (d) It is the supervisor and employee's responsibility to track when the temporary accommodation expires.
- (e) Once the temporary accommodation expires, the employee is expected to return to performing their essential and marginal job functions without an accommodation.
- (f) If the employee needs to extend the accommodation or request a new accommodation, they must notify the supervisor and send an email the MRP Reasonable Accommodation Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov).

b. Religious Accommodation

The religious accommodation process should be interactive and cooperative. The goal is to protect the individual's religious belief without creating an undue burden on the Agency.

The requested accommodation should be granted, modified, or denied by the supervisor within 30 business days of the initial request. The supervisor may grant an interim accommodation if it does not cause an undue hardship, or

impair workplace safety or security, until the MRP 33, Request a Religious Accommodation Form is returned, and a final decision is made regarding the request.

MRP Mission Area, and other USDA agencies utilizing the MRP Reasonable Accommodations Program for service, will adhere to the process to address requests for religious accommodations:

(1) Initial Request for Employees

- (a) Employees should make their initial request by sending an email to the MRP Reasonable Accommodations Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov), or contacting a Reasonable Accommodations Specialist, to receive instructions and the Request a Religious Accommodation Form.
- (b) If an employee makes the initial request to their supervisor, the supervisor must immediately refer the employee to or send an email to the MRP Reasonable Accommodation Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov), or contact a Reasonable Accommodations Specialist.

(2) Initial Request for Applicants and New Hires

- (a) For applicants, the Human Resources Specialist assigned to the vacancy announcement will refer the individuals to the MRP Reasonable Accommodations Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov). Applicants will be instructed to state "Applicant RA Request" in the subject line of the email.
- (b) For individuals selected as a new hire and needing a religious accommodation prior to reporting for duty in the new position, the selecting official or Human Resources Specialist must refer the individual to the MRP Reasonable Accommodations Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov). Individuals should be instructed to state "New Hire RA Request" in the subject line of the email.

(3) Forms

- (a) The form for initiating the religious accommodation request may be duplicated and returned upon completion to the MRP Reasonable Accommodations Program mailbox at [RARequest@usda.gov](mailto:RARequest@usda.gov).

- (b) Employees and applicants must return the completed form within 2 business days to the MRP Reasonable Accommodations Program mailbox at [RARRequest@usda.gov](mailto:RARRequest@usda.gov), or faxed to the number provided on the form.

(4) Eligibility

- (a) The assigned Reasonable Accommodations Specialist will review the completed form to ensure it contains sufficient information and is properly documented.
- (b) Once a determination of eligibility can be made, the eligibility letter will be issued to the employee and a copy sent to the supervisor within 2 business days.
- (c) The purpose of the eligibility letter is to verify the employee is eligible for a religious accommodation and states what is being sought by the employee. The final decision regarding the request will be provided in writing by the supervisor or deciding official after the interactive process.

(5) Interactive Process

- (a) The interactive process must take place within 7 business days, absent extenuating circumstances. When possible, the supervisor should do it earlier rather than waiting for the full 7 business days.
- (b) The supervisor will serve as the deciding official unless the request is for exemption from participating in an Agency-wide or Departmental-wide mandatory event. If so, a senior level official will serve as the deciding official.
- (c) Prior to the interactive process, the supervisor should:
  - 1. Contact the assigned Reasonable Accommodations Specialist with questions regarding the interactive process; and
  - 2. Analyze the employee's job functions to establish the essential and non-essential (marginal) job tasks.
- (d) The assigned Reasonable Accommodations Specialist should participate in the interactive process to facilitate the discussion.

Decisions regarding the accommodation request should not be made during the interactive process.

- (e) After the interactive process, the supervisor must notify the employee in writing of their decision within 7 business days, absent extenuating circumstances which must be relayed to the employee.

(6) Decision Regarding Request

- (a) If the supervisor is granting the requested accommodation or an alternative accommodation, the supervisor will:
  - 1. Make sure to identify the expectations;
  - 2. Establish a timetable for implementation; and
  - 3. If offering an alternative accommodation, include employee's option to request reconsideration of the decision to the next level supervisor and the employee's appeal rights.
- (b) If the supervisor is denying the request, the supervisor will
  - 1. Submit the decision in a written format;
  - 2. State the reason for the denial; and
  - 3. Include employee's options to request reconsideration of the decision to the next level supervisor and the employee's appeal rights.
- (c) If the deciding official is a senior level official, they must notify the employee's first- and second-line supervisors of the decision prior to issuance of the written response.
- (d) Program Areas with an internal policy requiring a senior level official to review the decision prior to notifying the employee, must provide a response to the supervisor within 5 business days in order to ensure a timely response to the request. If this policy delays the written decision to the employee, the supervisor must inform the employee of the delay.

- (e) The assigned Reasonable Accommodations Specialist must review the proposed decision before the final written decision is issued to the employee and must receive a copy of the final written decision for record purposes.
- (f) Should there be no effective accommodation that can be granted without causing undue hardship, the supervisor can deny accommodations. (See Section 11).
- (g) If an employee cannot be accommodated in their position of record, consideration for voluntary reassignment to another position of equal or lower grade will only be considered within the employee's office or Program Area as religious accommodation of last resort. (See Section 11).

c. Accommodation Request is Denied or Alternative Accommodation is Offered

The supervisor will provide a written decision and accompanying appeal rights to the employee within 7 business days after the interactive process. The explanation for the denial should clearly state the specific reason(s) for denial.

To deny an accommodation based on cost, supervisors must consider all resources available to the agency as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodations or religious accommodations.

If an employee or applicant is denied a reasonable accommodation or religious accommodation, or does not agree with the alternative accommodation offered, they have the following options:

(1) Request for Reconsideration.

- (a) Upon receipt of the alternative accommodation offered or denial of the request by the decision maker, the employee or applicant has 10 business days to submit a written request for reconsideration to the next level supervisor.
- (b) After receiving the request for reconsideration, the next level supervisor or designee has 14 business days to render a decision and notify the requestor in writing.
- (c) Employees and applicants should contact their assigned Reasonable Accommodations Specialist for additional information.

(2) Filing a Complaint.

The employee or applicant may file complaints related to a reasonable accommodation or religious accommodation through the following methods:

(a) Equal Employment Opportunity (EEO) Complaint Process: Employees and applicants must initiate contact with an EEO counselor within 45 calendar days from the date of denial (as defined by the date the written denial is issued with an additional 5 calendar days when the written denial is mailed to the employee or applicant). Information regarding the EEO Complaints Process is available on the [Civil Rights, Diversity and Inclusion web site](#).

(b) Administrative Grievance Process. This is an internal grievance process that is administrative in nature, not related to a union's negotiated grievance procedure or an EEO complaint. Employees may file an administrative grievance in accordance with the provisions of the [DR 4070-771-001, Administrative Grievance System](#).

Information regarding the MRP Administrative Grievance Process is available in the [HR Desk Guide for Administrative Grievances](#).

Employees should contact their servicing Labor Management and Employee Relations Specialist for additional information.

(c) Negotiated Grievance Procedure. Bargaining unit employees may contact their union representative to file a negotiated grievance, in accordance with collective bargaining agreement provisions.

(d) Appeal to Merit Systems Protection Board (only for Reasonable Accommodations). Employees may initiate an appeal to the Merit Systems Protection Board within 30 calendar days of an appealable adverse action as defined in 5 C.F.R. § 1201.3. Information is available on the [U.S. Merit Systems Protection Board web site](#).

Employees are also encouraged to utilize the Alternative Dispute Resolution services available within their agency.

APHIS employees can contact the APHIS Collaborative Resolution Program via email at [CRP@usda.gov](mailto:CRP@usda.gov), which is an informal, voluntary,

confidential and non-EEO resolution process, to address the reasonable or religious accommodation.

AMS employees and other USDA agency employees utilizing the services of the MRP Reasonable Accommodations Program should contact their Agency's Office of Civil Rights for a point of contact.

d. Reassignment as Reasonable Accommodation of Last Resort

- (1) Reassignment is considered only if no other accommodations are available to enable the individual to perform the essential functions of their job, or if the only available accommodation would cause an undue hardship to the Agency.
- (2) A reassignment will be made only to a vacant and funded position and for an employee who is qualified for the new position.
- (3) The agency is not required to create a new position for the employee as part of this process.
- (4) If the employee declines the offer of a reassignment search, or does not return the completed MRP Form 30, Reasonable Accommodation Reassignment of Last Resort Request and current resume, the assigned Reasonable Accommodations Specialist will notify the supervisor, and a Labor Management and Employee Relations Specialist.
- (5) The search for a reassignment will focus on positions which are equivalent to the employee's current job in terms of pay, status, grade level, and other relevant factors. The appropriate personnel in HRD Operations will determine if the employee is qualified for positions or job series other than their current position or series, as determined by their education and experience stated in a current resume.
- (6) While the reassignment search is being conducted, the employee should be detailed to a different position or given temporary alternative/modified duties in which they can perform within their limitations.
- (7) The reassignment process is generally set forth below:
  - (a) The Reasonable Accommodations Specialist will contact the employee within 2 business days of being notified by the supervisor that no other accommodations are available to determine their interest in being reassigned.

- (b) The Reasonable Accommodations Specialist will send the employee the MRP Form 30, Reasonable Accommodation Reassignment of Last Resort Request, which includes the following statements:
1. If a reassignment is outside of the current commuting area, the agency is not obligated to pay relocation costs;
  2. The employee will not receive a promotion as a result of the reassignment;
  3. If the employee agrees to accept a position at a lower pay grade, there is no pay retention provided; and
  4. If no position is found to which the employee can be reassigned, they may be removed for medical inability to perform.
- (c) The employee must complete and return the MRP Form 30 and current resume to the assigned Reasonable Accommodations Specialist within 3 business days. Extensions, with limited additional days, may be granted upon request.
- (d) Upon receipt of the MRP Form 30 and current resume, the Reasonable Accommodations Specialist will contact the Human Resources Selective Placement Coordinator to initiate the Agency and Mission Area search for 30 calendar days. This will include vacancies currently open, and vacancies anticipated to be opened within the 30 calendar days search, based on requests for recruitment actions.
- (e) If no position is identified at the Agency and Mission Area level, a 30-calendar day search will be conducted at the Department level.
- (f) Employees may request that the Agency/Mission Area and Departmental level searches for vacant positions be combined into a 30-calendar day search.
- (g) If a vacant/suitable position is located and the employee meets basic qualifications, the Reasonable Accommodations Specialist will notify the position's selecting official to schedule an interactive process discussion.

- (h) After the interactive process discussion, the Reasonable Accommodations Specialist will conduct and document a disability analysis, with the position's selecting official, to ascertain if the employee can perform the essential job functions with or without a reasonable accommodation.
  - (i) If the employee can be accommodated, they will be reassigned to the position non-competitively, subject to acceptance by the employee.
  - (j) If an USDA employee outside of the Agency or Mission Area is seeking a reassignment through the Departmental-level search and deemed qualified for a position, the Reasonable Accommodations Coordinator from the employee's Agency will contact the position's selecting official to initiate the interactive process discussion and afterwards, the disability analysis. If the employee can be accommodated, the Reasonable Accommodations Coordinator will notify the MRP Reasonable Accommodations Specialist.
  - (k) If an available position is identified and offered to the employee, the employee must notify the Reasonable Accommodations Specialist within 3 calendar days if they accept the position.
  - (l) If no positions are available for which the employee is qualified, or the employee chooses not to accept an offered position, the assigned Reasonable Accommodations Specialist will notify the supervisor and a Labor Management and Employee Relations Specialist. The employee may be separated from Federal service for a medical inability to perform their job.
  - (m) If an employee is reassigned to a position and it is later determined that they cannot perform the essential job functions with or without a reasonable accommodation, the employee is not eligible for an additional reassignment search. The supervisor should contact a Labor Management and Employee Relations Specialist.
- (8) When a probationary employee has never adequately performed the essential functions of the position, with or without a reasonable accommodation, they are not entitled to a reassignment because they have never "qualified" for the original position. In this situation, the employee is similar to an applicant who applies for a job for which they are not qualified, and then requests reassignment. Applicants are not entitled to a reassignment.

e. Reassignment as Religious Accommodation of Last Resort

- (1) If the supervisor or deciding official considers reassignment as the accommodation of last resort, the supervisor is responsible for conducting the reassignment search for positions within the office and the Program Area for 30 calendar days.
- (2) If an employee declines the reassignment search or the offered position, the supervisor or deciding official must notify the assigned Reasonable Accommodations Specialist and their Labor Management and Employee Relations Specialist within 2 business days.
- (3) The supervisor will not create a new position for the employee as part of the reassignment process.
- (4) If a position is found, the supervisor or deciding official must contact the servicing Human Resources Staffing Specialist within the HRD, Operations to determine eligibility. The position must be a fully funded vacant position at the same grade level or lower as the employee's current position.
- (5) If the employee agrees to a reassignment, the supervisor or deciding official must notify the assigned Reasonable Accommodations Specialist within 2 business days.

f. Employee With A Disability Cannot Be Accommodated or Reassigned

- (1) The employee may contact the Human Resources Benefits Section for information on a medical disability retirement, if it appears that they are no longer able to perform efficient and useful service and that their medical condition will continue for more than 1 year.
- (2) If an employee decides to apply for a medical disability retirement they must complete the SF-3112, Documentation in Support of Disability Retirement Application. The Reasonable Accommodations Specialist will complete Section D of SF-3112, Agency Certification of Reassignment and Accommodation Effort, if requested. The Reasonable Accommodations Specialist will return the completed form to the appropriate Benefits Specialist.

g. Confidentiality Requirements

- (1) An employee's granted reasonable accommodation or religious accommodation should not be described in their telework agreement, time and attendance record, or tour of duty work schedule.

- (2) The fact that an employee requested or was granted an accommodation, and all related documentation, should only be shared on a need-to-know basis with those directly involved in making the decision or providing consultation or implementing the accommodation.
- (3) Supervisors and managers may request relevant information necessary to understand the employee's restrictions and limitations related to the essential job functions and to make a decision on the employee's accommodation request.
- (4) Requests for information should be limited and consist of targeted questions directed to the employee; such requests are not investigatory in nature and should not include research into the employee's social media.

## 12. FORMS

The form(s) that are referenced and/or required for use as established by this Directive include:

- a. MRP 30, Reasonable Accommodation Reassignment of Last Resort Request
- b. MRP 31, Medical Checklist
- c. MRP 32, Medical Release Form
- d. MRP 33, Religious Accommodation Request Form
- e. [AD-1163, Confirmation of Request for Reasonable Accommodation](#)
- f. [AD-1164, Reasonable Accommodation Information Reporting Form](#)
- g. [AD-1165, Denial of Reasonable Accommodation Request](#)
- h. [SF-256, Self-Identification of Handicap](#)
- i. [SF-3112, Documentation in Support of Disability Retirement Application](#), which includes Section D, Agency Certification of Reassignment and Accommodation Effort

The AD-1164 and AD-1165 must only be completed by the deciding official after the interactive discussion has occurred in consultation with the assigned Reasonable Accommodations Specialist.

The form(s) listed above can be electronically accessed through the [AMS /APHIS](#) Master Electronic Forms Library, the [Agency Electronic Forms Library](#), and the [U.S. General Services Administration](#).

### **13. RECORDS MANAGEMENT**

The MRP Reasonable Accommodations Program has a legal obligation to track all reasonable accommodations and religious accommodations requested by and granted or denied for applicants and employees.

- a. Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, Section 1(b)(9) states, an agency's procedures must:

"Ensure that agencies' systems of recordkeeping track the processing of requests for reasonable accommodation and maintain the confidentiality of medical information received in accordance with applicable law and regulations."

- (1) The specific reasonable accommodation or religious accommodation being requested;
  - (2) The position (occupational series, grade level, and agency component) held by the employee or job sought by the applicant;
  - (3) The deciding official;
  - (4) Whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment;
  - (5) Whether the request was granted or denied;
  - (6) The specific accommodation granted;
  - (7) The basis of the denial; and
  - (8) The number of days taken to process the request.
- b. APHIS is required to keep records that it may use to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501, and to make such records available to the Commission upon the Commission's request.

#### 14. INQUIRIES AND ADDITIONAL INFORMATION

- a. Inquiries regarding reasonable accommodations should be directed to the Reasonable Accommodations Specialists or the Servicing Disability Program Managers as listed via the [USDA APHIS | MRP Contacts](#).
- b. Records management inquiries should be directed to the MRP Program Records Liaison (For current contact see: [AMS Records Liaisons](#) or [APHIS Records Liaisons](#)).
- c. Persons with disabilities who require alternative means for communication of this policy (Braille, large print, audiotape, etc.), should contact the United States Department of Agriculture's TARGET Center at (202) 720-2600 (voice and TDD) for assistance.
- d. This Directive can be accessed online via the [AMS Issuances Web page\(s\)](#)/[APHIS Issuance Web page\(s\)](#).