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NASA Procedural Requirements

COMPLIANCE IS MANDATORY

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Request Notification of Change (NASA Only)

Subject: Reasonable Accommodations Procedures

Responsible Office: Office of Diversity and Equal Opportunity

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Chapter 5. Dispositioning the Request

5.1 Granting of a Reasonable Accommodation Request

5.1.1 Upon determining that a reasonable accommodation shall be provided, the DM shall immediately communicate the decision orally, or in writing, to the individual within the timeframe provided in chapter 4. If the DM initially communicates the determination orally, he or she must follow up with a written record using NASA Form Disposition of Reasonable Accommodation Request 1699A (see Appendix A). Each installation shall make a determination regarding how funding shall be provided to support the provision of reasonable accommodation.

5.1.2 Reassignments

5.1.2.1 If a reasonable accommodation that is granted turns out to be ineffective such that the employee with a disability remains unable to perform an essential function of the job, NASA shall consider whether there is an alternative reasonable accommodation that would not pose an undue hardship. This means that a reassignment shall only be considered if no reasonable accommodations are effective to enable the individual to perform the essential functions of the current job, or if the only effective reasonable accommodation would cause undue hardship. If an alternative reasonable accommodation is not available, NASA shall attempt to reassign the employee to a vacant position for which the employee is qualified, and such reassignment would not cause an undue hardship. Consideration of a reassignment is only available to employees (not job applicants).

5.1.2.2 A reassignment can be granted as a reasonable accommodation to a qualified probationary and career employee and may be made to a vacant position outside the employee's commuting area if the employee is willing to relocate. As with other transfers not required by management, NASA shall not pay for the employee's relocation costs if the position is outside the commuting area. In addition, a qualified employee with a disability requesting reasonable accommodation may be offered a reassignment as a reasonable accommodation to a position for which a vacancy announcement has been published, as long as a selection to fill the position has not been made.

5.1.2.3 In considering whether there are positions available for reassignment, the DM shall

work with both the Headquarters or Center Office of Human Resources (OHR), and the individual requesting the reasonable accommodation to identify: (1) all vacant positions within the Center (and, if the employee wishes, Agency-wide) for which the employee is qualified, with or without reasonable accommodation; and (2) all positions that OHR has reason to believe shall become vacant over the next 60 business days and for which the employee is qualified. NASA shall initially focus on positions that are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, NASA shall consider vacant lower-level positions for which the individual is qualified.

5.2 Denial of a Reasonable Accommodation Request

5.2.1 As soon as the DM determines that a request for reasonable accommodation shall be denied, and after consultation with the Center's EO Officer, the DM shall fill out a NASA Form 1699A (Disposition of Reasonable Accommodation Request) and give it to the individual who requested the reasonable accommodation. The DM shall also complete NASA Form 1699B (Denial of Reasonable Accommodation Request). In cases where an alternate format is appropriate, the information in NASA Form 1699A shall be provided in the relevant format. The explanation for the denial shall be written in plain language, clearly stating the specific reasons for the denial. Where the DM has denied a specific requested reasonable accommodation, but offered to make a different one in its place which was not agreed to during the interactive process, item #14 (Comments) of NASA Form 1699A shall contain an explanation of both the reasons for the denial of the requested reasonable accommodation and the reasons that the DM believes that the chosen reasonable accommodation shall be effective. (The actual notice to the individual must include, but is not limited to, specific reasons for the denial; for example, why the reasonable accommodation would not be effective or why it would result in undue hardship). Reasons for the denial of a request for reasonable accommodation may include, but not limited to the following:

5.2.1.2 It is determined, based on the interactive process and in consultation with relevant resources; the requested reasonable accommodation would not be effective. ⁵

⁵ EEOC Policy Guidance on Executive Order 13164, ° B (Processing Requests for Reasonable Accommodation), Questions 10-11.

5.2.1.3 Providing the requested reasonable accommodation would result in undue hardship. Before reaching this determination, the DM (with appropriate consultation), shall determine whether other effective reasonable accommodations exist which would not impose undue hardship and therefore, can be provided. When evaluating budgetary or administrative concerns to determine if undue hardship exists, NASA shall follow the regulatory standards in 29 C.F.R. °1630.2(p)(2).

5.2.1.4 Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.

5.2.1.5 The requested reasonable accommodation would require the elimination of an essential function of the position.

5.2.1.6 The requested reasonable accommodation would require the lowering of a performance standard (e.g., safety, quality, reliability, etc.).

5.2.2 With notification of denial, the DM shall also inform the individual of the right to request the services of an EEO counselor and to engage in informal dispute resolution. (Since you are giving them notice of this right with notification of denial as you state in beginning, I don't think you need to say it again. If an employee or applicant for employment believes that he or she has been discriminated against because of disability by the Agency's denial of a request for reasonable accommodation, the employee or applicant may consult an Equal Employment Opportunity (EEO) Counselor at the respective NASA installation within 45 days of receipt of the written notice of denial, in accordance with 29 C.F.R. ° 1614.105(a)(1). (See also Chapter 8, ° 8.1).

5.2.3 Informal dispute resolution may include a request for reconsideration of the decision. In this regard, the individual shall be informed that he or she may request reconsideration by the original DM and for a second level of reconsideration by an Agency official who was not involved in the original decision. If an individual wishes to request reconsideration of this decision, he or she may take the following steps:

5.2.3.1 Request the DM to reconsider the denial within 30 days of receipt of denial (Form 1699B). Additional information may be presented to support this request.

5.2.3.2 If the DM does not reverse the denial, the individual may ask for an independent review by the organizational head, if the DM was the individual's immediate supervisor, or by the DPM, if the DM was the organizational head. This request must be made within 30 days of receipt of non-reversal by the DM.

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