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# NASA Procedural Requirements

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## **Subject: Reasonable Accommodations Procedures**

**Responsible Office: Office of Diversity and Equal Opportunity**

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## **Appendix A. Definitions**

### **A.1 Decision Maker (DM)**

The DM is the person who determines whether a request for reasonable accommodation is granted. In the case of an employee, the DM, in most cases, shall be the employee's immediate supervisor. In the case of an applicant, it shall be the human resources specialist (HRS) who has been assigned to process the vacancy, in conjunction with the selecting official. In cases where the employee's immediate supervisor or the HRS processing the vacancy is not available to receive and process a request for reasonable accommodation, the Headquarters or Center's Equal Opportunity (EO) Officer shall be the DM. In the case of an applicant for whom the HRS and Selecting Official are not available, the EO Officer shall be the DM.

### **A.2 Direct Threat**

Direct Threat means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a ``direct threat' shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include: (1) The duration of the risk; (2) The nature and severity of the potential harm; (3) The likelihood that the potential harm will occur; and (4) The imminence of the potential harm. <sup>6</sup>

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<sup>6</sup> 29 C.F.R. § 1630.2(r).

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### **A.3 Disability Program Manager (DPM)**

Normally, the DPM is a member of the Agency's Office of Diversity and Equal Opportunity (ODEO) or Center EO Office staff whose responsibilities include administering the Special

Emphasis Program (SEP) for individuals with disabilities. In some cases, the duties of a DPM may be performed on a collateral duty basis by a person permanently assigned to an operational component other than the Headquarters or Center EO Offices.

## **A.4 Essential Functions**

Essential functions are those job duties that are so fundamental to the position that the individual holding or desiring the position cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or if the function is specialized and the individual is hired based on the individual's ability to perform it.<sup>7</sup> Determination of the essential functions of a position must be made on a case-by-case basis so that the current duties of the position reflect the job as actually performed, and not simply the components of a generic position description. The determination shall be made based on NASA's judgment as to which functions are essential, a written job description prepared before the job was advertised or interviews conducted, and other considerations as appropriate, to include: the actual work experience of present or past employees in the job, the time spent performing a function, the consequences of not requiring that an employee perform a function, and the terms of a collective bargaining agreement.

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<sup>7</sup> EEOC Policy Guidance, § I(A).

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## **A.5 Individual with Disability**

An individual with a disability is one who: (1) has a physical or mental impairment which substantially limits one or more of the person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment.

## **A.6 Major Life Activities**

Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.<sup>8</sup>

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<sup>8</sup> 29 C.F.R. § 1630.2(i).

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## **A.7 Physical or Mental Impairment**

A physical impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine. A mental impairment is any mental or psychological disorder, such as mental retardation, organic brain syndrome, traumatic brain injury, emotional or mental illness, and specific learning disabilities.<sup>9</sup>

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<sup>9</sup> 29 C.F.R. § 1630.2(h).

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## **A.8 Qualified Individual with a Disability**

Qualified individual with a disability means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who can perform the essential functions of such position, with or without reasonable accommodation.<sup>10</sup>

19 29 C.F.R. § 1630.2(m).

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## A.9 Reasonable Accommodation

A.9.1 Reasonable accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.<sup>11</sup> There are three categories of reasonable accommodations:

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<sup>11</sup> U.S. EEOC, Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (Oct. 17, 2002), "General Principles: Reasonable Accommodation," citing 29 C.F.R. pt. 1630 app. § 1630.2(o), accessible at [http://www.eeoc.gov/policy/docs/accommodation.html#N\\_17](http://www.eeoc.gov/policy/docs/accommodation.html#N_17) (hereafter cited as EEOC Enforcement Guidance).

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A.9.1.1 Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille).

A.9.1.2 Modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters).

A.9.1.3 Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as removing physical barriers in an office cafeteria).<sup>12</sup>

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<sup>12</sup> EEOC Enforcement Guidance, "General Principles: Reasonable Accommodation;" see also U.S. Office of Personnel Management, Federal Employment of People with Disabilities, HR Professionals and Reasonable Accommodation, accessible at [http://www.opm.gov/disability/hrpro\\_6-01-B.asp](http://www.opm.gov/disability/hrpro_6-01-B.asp) (hereafter cited as OPM Guidance)

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A.9.2 Reasonable accommodations that can be requested include, but are not limited to, the following:

A.9.2.1 Making existing facilities accessible.

A.9.2.2 Restructuring the job.

A.9.2.3 Utilizing part-time or modified work schedules.

A.9.2.4 Adjusting or modifying tests, training materials, or policies.

A.9.2.5 Providing qualified readers and interpreters.

A.9.2.6 Acquiring or modifying equipment.

A.9.2.7 Reassigning an individual to a vacant position for which the employee must be qualified (Note: Reassignment is an option of last resort).

## A.10 Reassignment

Reassignment is the placement of an employee in a vacant position without competition at the same grade and potential currently held for which the employee is qualified. If a position of an equal grade is not available, an employee may voluntarily accept a change to a lower grade and to a vacant position for which the employee is qualified. Before considering reassignment as a reasonable accommodation, the Agency shall first consider those reasonable accommodations that would enable employees to remain in the current position. Reassignment is required only after it has been determined that: (1) there are no effective reasonable accommodations that shall enable employees to perform the essential functions of their current position or (2) all other reasonable accommodations would impose an undue hardship. However, if both the Agency and the employee voluntarily agree that transfer is preferable to remaining in the current position with some form of reasonable accommodation, then the employer may transfer the employee. <sup>13</sup>

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13 EEOC Enforcement Guidance: "Types of Reasonable Accommodation Related to Job Performance: Reassignment."

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## A.11 Undue Hardship

A significant difficulty or expense focused on the resources and circumstances of the Agency in relationship to the cost or difficulty of providing a specific reasonable accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. The Agency must assess on a case-by-case basis whether a particular reasonable accommodation would cause undue hardship. <sup>14</sup> In making the determination as to "significant difficulty or expense" the Agency shall consider:

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<sup>14</sup> EEOC Enforcement Guidance, "General Principles: Undue Hardship."

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A.11.1 Overall size of the Agency's program with respect to the number of employees, number and type of facilities, and size of budget.

A.11.2 Type of operation, including the composition and structure of the Agency's workforce.

A.11.3 Nature and cost of the reasonable accommodation.<sup>15</sup>

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<sup>15</sup> OPM Guidance, "What is an Undue Hardship?"

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