



Number	Date	Organization
CFPB-xxx-xx	xx/xx/2019	OEOF

Disability Reasonable Accommodation and Personal Assistance Services Policy

I. Purpose

This document implements the requirements of the Rehabilitation Act of 1973, related regulations promulgated by the U.S. Equal Employment Opportunity Commission (EEOC), and Executive Order No. 13164 by establishing the Consumer Financial Protection Bureau (CFPB) policy on providing Reasonable Accommodations to individuals with disabilities and Personal Assistance Services to employees with targeted disabilities.

If an employee or applicant needs this Policy – or the related *Standard Operating Procedures Related to Reasonable Accommodations and Personal Assistance Services Requests by CFPB Employees and Applicants for Employment* – in an accessible format to meet an individual’s particular needs, please request the accessible documents from the CFPB’s Reasonable Accommodations Program Manager at CFPB_ReasonableAccommodations@cfpb.gov.

II. Policy

It is the policy of CFPB to ensure equal access and employment opportunities to otherwise qualified individuals with disabilities by providing Reasonable Accommodations (RA) unless doing so would cause undue hardship. It is further the policy of the CFPB to provide affirmative action for people with disabilities as specified in applicable EEOC regulations, including by providing Personal Assistance Services (PAS) to eligible employees with targeted disabilities, absent undue hardship.

CFPB will provide RA when an otherwise qualified individual with a disability needs it to:

- apply for a job at CFPB;
- perform the essential functions of his or her job; and/or
- enjoy equal access to the benefits and privileges of employment that are available to employees without disabilities.

Further, CFPB will provide PAS to a current employee who, because of a targeted disability, needs assistance with performing activities of daily living that the individual would typically perform if he or she did not have a disability, and that is not otherwise required as a RA.

CFPB is committed to processing requests for RA and PAS in a timely, efficient, and fair manner and to maintaining open and continuous communication to ensure employees and supervisors are aware of RA/PAS options and the status of requests.

CFPB treats all specific requests for RA, requests for PAS, and all information and accompanying medical documentation provided during the RA/PAS process, as confidential.

CFPB is prohibited from taking an adverse action against a job applicant or employee based on their need for, or their perceived need for, RA or PAS. Individuals may not be retaliated against for requesting or receiving RA or PAS. It is unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Rehabilitation Act or the Americans with Disabilities Act of 1990, as amended.

The Disability Compliance Program Manager (DCPM) has a reporting relationship to the Associate Director, Office of Equal Opportunity and Fairness (OEOF). In order to remove the potential for actual conflicts of interest and manage the appearance of perceived conflicts of interest, OEOF established an OEOF Associate Director firewall ("firewall"). The implementation of the firewall creates the need for the CFPB to appoint another CFPB official to issue and sign final agency actions and decisions issued on behalf of the Bureau.

The firewall prevents the OEOF Associate Director from any and all involvement in the issuance of the OCR's Final Agency Decisions (FADs) involving RA requests or other disability related requests, as well as managing, advising, or overseeing of the Disability Program's decisions regarding RA requests and other disability related requests. It is important to note that the firewall does not exclude the OEOF Associate Director from being briefed disability related trends involving complaints or requests, or on the outcome or implications of any particular complaint or request as necessary and consistent with applicable laws and regulations. Further, as a Senior CFPB Official, the OEOF Associate Director is not prevented from providing suggestions for the DCPM to consider in overall procedures for processing disability related requests, so long as the OEOF Associate Director, does not make any decisions involving RA requests, and does not make any decisions regarding disability related requests submitted to the Disability Program.

CFPB will routinely review this RA/PAS policy and submit any modifications to the EEOC for approval as required under 29 C.F.R. § 1614.203 and/or applicable Executive Orders.

III. Matters Outside the Policy's Scope

A routine ergonomic request that is not related to a medical condition or disability should be directed to the Administrative Operations, Facilities Team. A request for IT equipment that is

not associated with a medical condition or disability should be directed to the Administrative Operations, Technology and Innovation Team.

The CFPB may also provide accessibility accommodations to members of the public when necessary to ensure equal access to CFPB communications, programs and activities. Procedures and information about the enforcement of nondiscrimination on the basis of disability in programs and activities conducted by CFPB, and denial of access to electronic and information technology, are governed by 12 C.F.R Part 1072.

IV. Definitions

Alternative Dispute Resolution (ADR): Procedures for settling disputes by means other than litigation, which may include a discussion between the parties mediated by a third-party neutral.

Deciding Official (DO): The DCPM in OEOF has oversight program responsibilities for this RA/PAS policy and related Standard Operating Procedures. This individual has the authority to grant or deny requested RA. The Reasonable Accommodation Program Manager (RAPM) (defined below) reports to the DO and carries out the processing of RA and PAS requests, including engaging in the interactive process and informing the requestor regarding the outcome of requests. The RAPM may also make decisions concerning interim accommodations. The DO can be reached at CFPB_ReasonableAccommodations@cfpb.gov.

Disability/Individual with a Disability: For purposes of this policy, “disability” means, with respect to an individual, (1) a physical or mental impairment that substantially limits one or more major life activities of such individual (“actual disability”); (2) a record of such an impairment (“record of disability”); or (3) being subjected to an action prohibited under the Rehabilitation Act because of an actual or perceived physical or mental impairment that is not both transitory and minor (“regarded as disability”). For purposes of being “regarded as” having a disability, an impairment is “transitory” if it has an actual or expected duration of six months or less. Individuals who are *only* “regarded as” having a disability are protected from discrimination but are not entitled to RAs under the law or this policy. The Americans with Disability Act (ADA) Amendments Act of 2008 (ADAAA), which is incorporated by reference into the Rehabilitation Act of 1973 and thus applies to CFPB actions as an employer, construes the statutory term “disability” broadly in favor of expansive coverage to the maximum extent permitted by the terms of the ADA and the Rehabilitation Act.

Essential Functions of the Job: These are the fundamental job duties of the position in question. A function can be “essential” if among other things: (1) the position exists specifically to perform that function; (2) there are a limited number of other employees who could perform the function if assigned to them; and/or (3) the function is specialized and the incumbent is hired based on their expertise or ability to perform it. The term “essential function” does not include the marginal functions of the position.

Extenuating Circumstances: Factors that delay processing and that could not reasonably have been anticipated or avoided in advance of the request or processing of the request for RA or

PAS. Examples include, but are not limited to, requests for an evaluation of medical documentation, purchase of equipment, architectural barrier removal, and job reassignment.

Interactive Process: The next step following a request for RA or PAS. This means that the individual requesting the RA/PAS and the RAPM (defined below) must communicate with each other about the request, the precise nature of the problem that is generating the request, how a disability is prompting the need for an RA (or a targeted disability is prompting the need for PAS), and alternative accommodations that may be effective in meeting an individual's needs. The RAPM will also communicate with the individual's supervisor or the selecting official, when appropriate, to determine whether a particular accommodation would be effective or specific PAS will meet an eligible employee's needs.

Major Life Activity: Basic activities an average person in the general population can perform with little or no difficulty as defined by EEOC regulations. Examples include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and major bodily functions (e.g., normal cell growth, immune, digestive, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions).

Personal Assistance Services (PAS): Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a RA, including, for example, assistance with removing and putting on clothing, eating, and using the restroom. PAS do not include medical services, such as performing medical procedures (e.g., administering shots) or medical monitoring (e.g., monitoring blood pressure).

Personal Assistance Service Provider: An employee or independent contractor whose primary job functions include provision of PAS.

Qualified: "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 the individual holds or desires and, with or without RA, can perform the essential functions of the position.

Reassignment: In general, reassignment should be considered as a RA only when there are no other accommodations available to enable the individual to perform the essential functions of his or her current position, or if the only other effective accommodation within the individual's current position would pose an undue hardship. Where appropriate, the CFPB could reassign an individual as a RA to an equivalent position, in terms of pay, status, etc., if the individual is qualified, and if the position is vacant and funded. "Vacant" positions include positions that are available when the employee asks for RA and positions that the CFPB knows will become available within a reasonable amount of time. A "reasonable amount of time" should be determined on a case-by-case basis considering relevant facts, such as whether the employer, based on experience, can anticipate that an appropriate position will become vacant within a short period of time. A search for vacant positions will be conducted by the CFPB, in

consultation with the requestor and other relevant CFPB officials (as necessary), for a minimum of 30 days. The CFPB may reassign an individual to a lower graded position for which he or she is qualified if there are no accommodations that would enable the employee to remain in the current position and there are no vacant, funded equivalent positions for which the individual is qualified with or without RA. The CFPB is not required to promote an individual with a disability as a RA and is not required to create a new position as a RA.

Reasonable Accommodation (RA): An employer's adjustment or alteration to the work environment or in the way things are customarily done that enables a qualified individual with a disability to enjoy equal employment opportunities. There are three broad categories of RA: (1) modifications or adjustments to a job application process that permit an individual with disability to be considered for a job; (2) modifications or adjustments to workplace rules (to include leave, telework and/or alternative work schedules) regarding how or when the job is performed that will enable an otherwise qualified individual with a disability to perform the essential functions of the job; and (3) modifications or adjustments such as the removal of a physical barrier to enable a qualified individual with a disability to enjoy equal benefits and privileges of employment.

Reasonable Accommodation Program Manager (RAPM): The RAPM reports directly to the DO in the Office of Equal Opportunity and Fairness (defined above). The RAPM is designated to coordinate and process RA and PAS requests for CFPB. The RAPM works directly with CFPB applicants and employees who are requesting RA or PAS and assists the requestor through the process. The RAPM coordinates with the DO, and ultimately communicates the decision regarding any RA and PAS requests to the requestor.

Request for Reasonable Accommodation: An oral or written request for an adjustment or change in the application process, at work, or related to a benefit or privilege of employment that the individual needs due to a medical condition. Such requests can be made in plain English, need not use any specific words such as "reasonable accommodation" or "disability," and may be made by the individual, a family member, a health professional, or another representative who is acting on the individual's behalf. An accommodation can be requested at any time and is not time-limited based on the point where a disability first affects work performance. An individual does not need to have a specific accommodation in mind before making a request. A request for RA may include a request for paid and/or unpaid leave, and/or telework as an accommodation. Leave and/or telework may not be an appropriate accommodation if the employee desires to report to work and there is an effective accommodation that would allow the employee to report to work, without undue hardship to the Agency.

Requestor: An applicant or employee with a disability, or an individual acting on their behalf, who requests a RA, or an eligible employee with a targeted disability who requests PAS.

Substantially Limited: To have an actual or record of disability, an individual must be (or have been) substantially limited in performing a major life activity as compared to most people in the general population. An impairment need not prevent or severely or significantly limit a major life activity to be considered substantially limiting. The determination requires an individualized assessment and will not usually require scientific, medical, or statistical evidence, although such evidence may be used if appropriate.

Targeted disabilities: Targeted disabilities are a subset of conditions that would be considered disabilities under the Rehabilitation Act. The federal government has recognized that qualified individuals with certain disabilities face significant barriers to employment, which for some people may include lack of access to PAS in the workplace, that are above and beyond the barriers faced by people with the broader range of disabilities. The federal government calls these “targeted disabilities.” A list of targeted disabilities can be found on the [Office of Personnel Management’s Standard Form 256](#). Targeted disabilities also include conditions that fall under one of the first twelve (12) categories of disability listed in Part A of question 5 of the [EEOC’s Demographic Information on Applicant’s form](#).

Undue Hardship: If a specific RA or PAS would cause significant difficulty or expense, CFPB is not required to provide it. This determination must be made on a case-by-case basis in consultation with the Legal Division, considering (among other factors) the nature and cost of the RA/PAS in relation to the size, resources, nature, and structure of the CFPB’s operation. Undue hardship refers not only to financial difficulty, but to RA/PAS that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the agency’s business. CFPB will assess on a case-by-case basis whether a particular RA or PAS would cause undue hardship. Generally, requests for accommodation/PAS will not be denied for reasons of cost, and individuals with disabilities will not be excluded from employment due to the anticipated cost of a RA if the resources available to the CFPB as a whole, excluding those designated by statute for a specific purpose that does not include RA, would enable the CFPB to provide an effective RA without undue hardship. RAs/PAS are paid out of the Office of Equal Opportunity and Fairness’ centralized budget. To arrange for the purchase of anything related to the provision of a RA or PAS, supervisors and hiring officials should work with the RAPM.

V. Information Tracking and Reporting

The OEOF and OHC will keep records that the CFPB may use to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501 of the Rehabilitation Act. The CFPB will make such records available to the EEOC upon the EEOC’s request, and will provide this information for inclusion in the annual EEO program status report the CFPB submits to the EEOC under Management Directive 715. The records will include the following:

- (a) The number and types of RA requests made in the application process and whether they have been granted or denied;
- (b) The jobs (occupational series, grade level, and CFPB component) of each of the requesting individuals;
- (c) The specific RA that have been requested for each of those jobs;
- (d) Whether the specific RA was needed to apply for a job, perform the essential function of a job, or enjoy the benefits and privileges of employment;

- (e) Whether specific RA were granted (which may include an accommodation different from the one requested) or denied;
- (f) The identity of the DO for each specific request;
- (g) The basis for denials for each specific request;
- (h) The number and types of RA for each job that have been granted and denied;
- (i) The number and types of requests related to the benefits or privileges of employment and whether those requests have granted or denied;
- (j) The amount of time taken to process each request; and
- (k) The sources used for technical assistance in identifying possible RA.

Any report will not contain confidential information about specific requests for RA (or PAS), such as the names of requestors, and efforts will be taken to sanitize information that could identify the requestor.

CFPB will keep records related to a particular individual who has requested a RA for the duration of that individual's employment, or longer if necessary to comply with applicable records retention policies or to ensure the ability to adequately process a complaint filed under 29 C.F.R. Part 1614. CFPB also will keep any cumulative records used to track the agency's performance with regard to RA for at least three years.

VI. Roles and Responsibilities

Reasonable Accommodation Program Manager will:

- Oversee the RA (and PAS) program and requests for RAs from both applicants and employees, as well as requests for PAS from employees.
- Process all RA/PAS requests.
- Track requests, decisions, and maintain records on RAs and PAS in a database.
- Research options for RA and PAS and make recommendations.
- Provide information on RA and PAS procedures and options to CFPB employees and supervisors as appropriate and necessary.
- Participate in ongoing communication with all parties involved in processing requests for RA and PAS.
- Ensure the confidentiality of medical information collected to support RA and PAS requests.
- Work with necessary offices within the Operations Division (e.g., Facilities, Procurement, Technology & Innovation) to obtain equipment and services needed as RA.
- Consult with the Legal Division as needed.

- Complete annual reporting requirements.
- Consult with others as-needed on RA or PAS issues.
- Ensure that the most up-to-date versions of this Policy and the corresponding standard operating procedures are listed on the CFPB's external website.
- Make determinations concerning interim accommodations, consulting with the DCPM as necessary.

The Disability Compliance Program Manager will:

- Consult with the Legal Division as needed.
- Act as the DO, determining whether a request for RA or PAS will be approved or denied.
- Make final determinations as the DO on all RA and PAS requests.

The Chief Human Capital Officer will:

- Make final determinations as the DO on all RA and PAS requests for reconsideration.

The Total Rewards Team Lead will:

- Act as the DO in certain RA cases, including cases where there would be a conflict for the DCPM to handle the request.

The Chief Operating Officer will:

- Act as the DO where the Assistant Director, OEOF has an actual or perceived conflict of interest regarding alleged act(s) of discrimination.

The Office of Chief Financial Officer will:

- Allocate needed funding from OEOF approved budget for all approved RA and PAS requests in a timely manner.

Supervisors and managers will:

- Recognize that to request a RA, the applicant or employee merely has to let management know that some adjustment or change is needed to apply for or do a job or to enjoy a workplace benefit because of the limitations caused by a disability. No specific form is needed, and the requestor need not use the words “reasonable accommodation” to request an accommodation. In addition, the requestor does not need to have a specific accommodation in mind before making a request.
- Submit all requests for accommodations and PAS, whether written or oral, received from their employees or persons acting on behalf of the employee to the RAPM as soon as possible but no later than within two (2) business days of receipt.
- Proactively participate in ongoing communication with the employee and other applicable parties (e.g., the RAPM) regarding RA and PAS requests.
- Provide and/or assist in providing all necessary RA and PAS pursuant to this policy.
- Initiate discussions with employees about RA or PAS, in consultation with the RAPM, if they have identified performance or conduct concerns that the employee states may be due to a medical condition, including the need for extended leave for medical reasons.
- Not collect medical documentation, but instead instruct the individual to send any medical documentation related to a need for a RA or PAS to the RAPM.

Applicants and Employees will:

- Initiate a request for RA (and/or PAS) as needed. (A designated third party may also initiate a request.)
- Provide a completed request form and any necessary medical documentation.
- Participate in ongoing communication with the RAPM and other applicable parties regarding the RA or PAS request.

The Legal Division will:

- As necessary, provide legal advice related to the Rehabilitation Act and other applicable laws as they relate to requests for accommodations.

VII. References for Additional Information

- Rehabilitation Act of 1973 as amended (29 U.S.C. § 701 *et seq.*)
- The Americans with Disabilities Act of 1990 as amended (42 U.S.C. §§ 12102, 12114)
- The Americans with Disabilities Act Amendments Act of 2008
- Privacy Act of 1974, as amended
- 29 C.F.R. Parts 1614 and 1630
- 12 C.F.R. Part 1072
- Executive Order No. 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000)
- Equal Employment Opportunity Commission, Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable

- Accommodation (Oct. 20, 2000),
https://www.eeoc.gov/policy/docs/accommodation_procedures.html.
- Equal Employment Opportunity Commission, Procedures for Providing Reasonable Accommodation for Individuals with Disabilities (July 19, 2010),
https://www.eeoc.gov/eeoc/internal/reasonable_accommodation.cfm.
 - Equal Employment Opportunity Commission Technical Assistance Document: Employer-Provided Leave and the Americans with Disabilities Act (May 9, 2016),
<https://www.eeoc.gov/eeoc/publications/ada-leave.cfm>.
 - Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans With Disabilities Act (July 27, 2000),
<https://www.eeoc.gov/policy/docs/guidance-inquiries.html>.
 - EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act (October 17, 2002),
<https://www.eeoc.gov/policy/docs/accommodation.html#reassignment>.
 - EEOC Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act (Sept. 18, 2017),
<https://www.eeoc.gov/federal/directives/personal-assistance-services.cfm>
 - CFPB - Standard Operating Procedure on Ergonomic Equipment Requests
 - CFPB – Collective Bargaining Agreement

VIII. Appendices

- Appendix 1 – Standard Operating Procedures Related to Reasonable Accommodation and Personal Assistance Services Requests by CFPB Employees and Applicants for Employment
- Appendix 2 – Forms
 - a. Request for Reasonable Accommodation/Personal Assistance Services
 - b. Medical Release Form
 - c. Medical Inquiry Form
 - d. Approval of Reasonable Accommodation/PAS Request
 - e. Denial of a Reasonable Accommodation/PAS Request

IX. Approval and Date

 09/17/2019
Kathleen L. Kraninger, Director