



PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD
Reasonable Accommodation and Personal Assistance Service Policy

**POLICY FOR PROVIDING REASONABLE ACCOMMODATIONS
AND PERSONAL ASSISTANCE SERVICES**

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CHAPTER 1. GENERAL PROVISIONS

1. Introduction: The Privacy and Civil Liberties Oversight Board (PCLOB) is committed to providing reasonable accommodations (including Personal Assistance Services – “PAS”) to its employees and applicants for employment to ensure that individuals enjoy equal access to all employment opportunities. This policy prescribes the responsibilities and procedures for submitting and responding to requests for reasonable accommodations to qualified employees or applicants with disabilities.

2. References:

- a. The Rehabilitation Act of 1973 (29 U.S.C. Section 791), as amended.
- b. Americans with Disabilities Act (42 U.S.C. Section 12101), as amended.
- c. Equal Employment Opportunity Commission (EEOC) Final Rule Implementing the Americans with Disability Act Amendments Act of 2008 (March 25, 2011).
- d. Executive Order 13548 (July 26, 2010): Increasing Federal Employment of Individuals with Disabilities.
- e. Executive Order 13163 (July 28, 2000): Increasing Federal Employment of Individuals with Disabilities.
- f. Executive Order 13164 (July 26, 2000): Establishing Procedures to Facilitate the Provision of Reasonable Accommodation.
- g. 29 C.F.R. Part 1614: Federal Sector Equal Employment Opportunity.
- h. 29 C.F.R. Part 1630: Regulations to Implement the Equal Employment Provisions of the ADA.
- i. Privacy Act of 1974 (5 U.S.C. Section 552a), as amended.

3. Roles & Responsibilities:

- a. Reasonable Accommodations Coordinator (RAC)¹
 - i. Manages the agency-wide reasonable accommodation program.
 - ii. Acts as the primary source for processing reasonable accommodation requests in the first instance. If an employee wishes to engage directly with the Shared Service

¹ Per EEOC Guidance, the EEO Director should be “walled off” from serving as the RAC. See EEOC MD-715.



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Provider, the RAC shall supply the employee with the Shared Service Provider's contact information;

iii. Refers issues to the Shared Service Provider, as necessary;

iv. Administers the reasonable accommodation program by reviewing requests of PCLOB employees and applicants for resolution; reviewing requests for employees and applicants for completeness; assessing requests to determine whether the individual meets the definition of a qualified individual with a disability and needs a reasonable accommodation; assessing requests to determine whether an individual has a targeted disability requiring PAS; initiating the reasonable accommodation process with the requesting employee and appropriate officials; issuing timely determinations on granting or denying reasonable accommodation requests; and determining steps towards implementing granted accommodations or PAS;

v. Obtains and evaluates documentation supporting a reasonable accommodation request (such as medical information) when the disability and/or need for accommodation or PAS is not obvious;

vi. Works with the employee's supervisor to ensure that any accommodation or PAS, if appropriate, meets the individual's disability-related needs, and does not pose an undue hardship on the PCLOB;

vii. Works with supervisors, the Budget Officer, and the Shared Service Provider to inform and implement final decision on each request;

viii. Works with applicants with disabilities who need accommodation to apply for or be interviewed for a job;

ix. Works with the Budget Officer and EEO Director to administer the agency-wide budget to cover all costs associated with providing reasonable accommodations and PAS, including PAS providers, sign language interpreters, furniture, technology, and other significant expenses; and,

x. The RAC may be contacted at RAC@pclub.gov.

b. Shared Service Provider - Currently (as of FY22), the Shared Service Provider is the Department of the Interior's Interior Business Center (IBC) and provides the following services to PCLOB:

i. Upon referral from the PCLOB RAC, performs functions in paragraphs 3.a.iv through 3.a.vii.

ii. Recommends reasonable accommodation or PAS to the PCLOB. The PCLOB may accept Shared Service Provider recommendations as its final determination. If there is an objection from the supervisor about the PCLOB's determination, he or she should consult with the RAC, Chief Human Capital Officer, and General Counsel within



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seven days of the decision. If the employee objects to the PCLOB's determination, the employee must follow the appeals process.

c. Supervisor

- i. As soon as practicable, but no later than five business days, a supervisor (to include Board Members in the absence of an Executive Director and Chair, or in the event of a request from a Counselor) forwards requests for reasonable accommodations to the RAC;
- ii. If unclear, clarifies with the individual whether a reasonable accommodation is requested;
- iii. Participates in the reasonable accommodation processes, as needed, to ensure that any accommodation or PAS meets the individual's needs and enables the individual to perform the essential functions of the position, or in the case of PAS, enables the individual to perform activities of daily living that the individual would typically perform if the individual did not have a disability. For instance, a supervisor may need to be consulted about a specific accommodation request to ensure that any granted accommodation meets the individual's needs and enables the individual to perform the essential functions of the position, or in the case of a PAS request, that the service enables the individual to perform activities of daily living. No reasonable accommodation involving performance of the job will be implemented without first informing the employee's supervisor and the RAC;
- iv. Provide the RAC with any relevant information to help the RAC determine the essential job functions of the applicant's or employee's job position, to learn the effects the applicant's or employee's disability limitations have on the job requirements, and assess whether a requested reasonable accommodation would be effective; and,
- v. Maintains confidentiality of information received during the reasonable accommodation process.

d. EEO Director

- i. Responsible for keeping the Chair and Board Members informed of the effectiveness, efficiency, and legal compliance of the agency's Reasonable Accommodation program;
- ii. Provides all agency employees and supervisors with training on the agency's Reasonable Accommodation program;
- iii. Works with the Budget Officer and RAC to administer the agency-wide budget to cover all costs associated with providing reasonable accommodations, including PAS



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providers, sign language interpreters, furniture, technology, and other significant expenses;

iv. Ensures that the agency's Reasonable Accommodations program comply with EEOC orders; and,

v. Ensures that the PCLOB maintains records that may be used to determine whether the agency is complying with the nondiscrimination and affirmative action requirements imposed under Section 501, and to make such records available to EEOC upon EEOC's request. At a minimum, the EEO Director shall keep records concerning the specific reasonable accommodation; the job (occupational series, grade level, and agency component) sought by requesting applicant or held by the employee; 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; whether the request was granted or denied; the identity of the deciding official; the basis of the denial; and the number of days taken to process the request.

e. Employee and Applicant - A qualified employee or applicant, including a representative acting on the employee's or applicant's behalf, who requests a reasonable accommodation will follow the following procedures:

i. If the requester is an employee, notify either their supervisor, the next level supervisor in their immediate supervisory chain, or the RAC of the need for an accommodation or PAS. If the request is made by a representative acting on the employee's or applicant's behalf, such as family member or medical provider, they must provide the representative's contact information in writing. If the requester is an applicant, they must inform the servicing Human Resources (HR) Specialist for the vacancy and/or the Chief Human Capital Officer;

ii. If the requester initially made an oral request for a reasonable accommodation, as soon as possible thereafter, confirm the request in writing by submitting the *Reasonable Accommodation/Personal Assistance Services Request* form (Appendix C);

iii. Cooperate fully and in good faith by engaging in the reasonable accommodation process; and

iv. Respond to the RAC's request for relevant information, including medical information, in a timely manner. Medical Documentation should always be provided directly to the RAC.



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CHAPTER 2: REASONABLE ACCOMODATION PROCEDURES

1. Requests for Reasonable Accommodations: A request for an accommodation is an oral or written statement that an employee or applicant needs a modification or adjustment to the work environment, to the application process, or access to a benefit or privilege of employment because of limitations imposed on the individual by a disability. Likewise, a request for a PAS is an oral or written request that an employee or applicant needs assistance with performing activities of daily living that the employee or applicant would typically perform if they did not have a disability, and that is not otherwise required as a reasonable accommodation. A request does not have to use any special words, such as “reasonable accommodation,” “personal assistance request,” “disability,” or “Rehabilitation Act.” For example, an employee may tell her supervisor, “I’m having trouble getting to work at my scheduled starting time because of medical treatments I’m undergoing,” or “I need six weeks off to get treatment for a back problem” or “my wheelchair cannot fit under the desk in my office” – all of these would constitute requests for reasonable accommodations. Additionally, requests for reasonable accommodations often come from an employee or applicant’s family or caregiver. The reasonable accommodation (including PAS) process begins as soon as the oral or written request is made as defined below. A requestor may seek a reasonable accommodation whenever they choose, even if they have not previously disclosed the existence of a disability.

- a. The PCLOB will make available to job applicants and employees a copy of its procedures in written and accessible formats. Accessible format is a format that meets an individual’s particular need, including braille, large print, etc.
- b. An individual’s request must be considered if it is made either orally or in writing to their immediate supervisor, or the next-level supervisor in their immediate supervisory chain, or the RAC.
- c. An applicant for employment may request a reasonable accommodation orally or in writing from the HR Specialist and/or Chief Human Capital Officer, or any agency employee with whom the applicant has contact in connection with the application process.
- d. A family member, friend, health care professional or other representative may request a reasonable accommodation on behalf of a PCLOB employee or applicant either orally or in writing. The request should be submitted to the same person the employee or applicant would make the request; the receiving individual will memorialize the request. To the extent possible, an individual with a disability should be contacted to confirm that they in fact want a reasonable accommodation, prior to processing the request.
- d. Written confirmation of oral requests: To enable the PCLOB and the Shared Service Provider to keep accurate records regarding requests for accommodations, applicants and employees seeking a reasonable accommodation should memorialize an oral request in writing and should complete the *Reasonable Accommodation/Personal Assistance Services Request* form, located at Appendix C. That form, as well as all other forms the agency uses concerning a reasonable accommodation request, will be made available in alternative formats that are accessible to individuals with disabilities. The form should be submitted to the requestor’s supervisor or the RAC who will proceed in accordance with this Policy. The form will then be emailed to the Shared Service Provider, if required.



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2. Written Confirmation of Oral Requests:

- a. If the requester requires assistance to obtain or complete the *Reasonable Accommodation/Personal Assistance Services Request* form, the supervisor, RAC, or the Shared Service Provider (as applicable) will assist the requester.
- b. While the written confirmation should be made as soon as possible following an oral request, it is not a requirement for the request itself. The RAC or Shared Service Provider will begin processing the request as soon as it is made, whether written confirmation has been provided.
- c. When an employee has a need for a reasonable accommodation on a repeated basis, such as the assistance of a sign language interpreter or reader, the request form is required only for the first request. However, the requester must give appropriate advance notice to their immediate supervisor in writing (e.g., email) of the pertinent details of the request for each subsequent time the accommodation is needed. If an accommodation is needed on a regular basis (e.g., for a weekly staff meeting), the supervisor should make the appropriate arrangements without requiring a repeated request in advance of the occasion. See Appendix B - *Reasonable Accommodation and Personal Assistance Services Resources* - regarding services and equipment available for reasonable accommodation and PAS requests.
- d. A supervisor who believes that an employee may no longer need a reasonable accommodation should contact the RAC.

3. The Reasonable Accommodation Process:

- a. When an individual makes an oral or written request for reasonable accommodation (including PAS), the RAC should be notified. The RAC will then begin to engage in an interactive process with the individual. This process involves communication between the RAC and the requester to determine how best to respond to the employee's request. During this process, an individualized assessment will be conducted to review essential and collateral job functions, the employee's limitations, and possible accommodations. The process may require more than one discussion and may involve trying and evaluating the effectiveness of more than one accommodation. The RAC will also explain the reasonable accommodation process to the employee.
- b. Discussions should be documented, with at least the date, time, participants, and key points noted by the RAC or supervisor and/or Shared Service Provider.
- c. The RAC shall endeavor to work with the requester to implement a reasonable accommodation, or PAS. The RAC may consult with the Shared Service Provider to receive advice on the matter. The Shared Service Provider will review the matter, and may conduct its own interactive process, as described in paragraph 3.a., above, and provide advice to the RAC about possible options to resolve the request.



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d. In the case of an applicant for employment, the Chief Human Capital Officer and/or Shared Service Provider will engage in the reasonable accommodation process with the applicant. The applicant can track the status of their reasonable accommodation request by contacting the RAC at RAC@pclub.gov.

e. If a job offer has been made, the reasonable accommodation process with the requester (post-offer but pre-onboarding) should be conducted by the Shared Service Provider, in consultation with the RAC/supervisor to discuss and identify possible accommodations and ensure that the agreed upon accommodation is in place when the new employee starts work.

f. In some instances, the requester will suggest a specific type of reasonable accommodation that they think will be effective. However, the RAC and/or Shared Service Provider and the requester should work together in good faith to explore available and effective reasonable accommodation or PAS options throughout this process.

g. The RAC and Shared Service Provider may need to consult with other PCLOB personnel (e.g., an Employee's supervisor, Information Technology (IT) staff) or outside sources to obtain information necessary to implement an accommodation or PAS. All Agency personnel will prioritize responding to the RAC's request for information or assistance.

4. Types of Accommodations:

a. Overview: There are many potential types of accommodations and PAS, and an exhaustive list cannot be provided. Refer to Appendix B for a list of resources to aid in this process. The RAC, Chief Human Capital Officer and Shared Service Provider should think creatively when considering possible accommodations or PAS because there may be several types of effective accommodations or PAS available. The supervisor and RAC should grant an effective accommodation or PAS, which may not necessarily be the specific accommodation or PAS option the employee/applicant requested.

b. Common types of accommodations include:

- i. Modifying work schedules;
- ii. Granting breaks or providing leave;
- iii. Providing telework beyond that normally provided by the agency; and/or
- iv. Assistive technology.

c. Common types of PAS include:

- i. Assistance with removing and putting on clothing, eating, and using the restroom;
- ii. Pushing a wheelchair; and/or
- iii. Assisting with getting into or out of a vehicle.



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d. **Medical documentation:** Medical documentation may be required. When medical information is required to support a reasonable accommodation request, it should describe the nature of the individual's disability, his or her need for reasonable accommodation, and how the requested accommodation, if any, will assist the individual to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace. Medical documentation should always be provided directly to either the RAC or Shared Service Provider to evaluate and determine whether it supports the reasonable accommodation request.

i. **Obtaining and evaluating medical information:**

(1) If the RAC or Shared Services Provider determines no additional medical information is needed, they will advise the individual's supervisor to promptly complete processing of the request. If the RAC or Shared Services Provider determines additional medical information is needed, they will seek additional medical information from the requester. The RAC or Shared Services Provider may consult the supervisor and the PCLOB General Counsel in making these determinations, where appropriate. The PCLOB has the right to have medical information reviewed by a medical expert chosen by the agency at the agency's expense

(2) If a requester's disability and/or need for accommodation is not obvious or already known, the RAC or Shared Service Provider may require medical information showing that the requester has a covered disability and functional limitations that require accommodation, or a targeted disability requiring a PAS.

(3) Specifically, the RAC or Shared Service Provider may only seek medical information concerning an accommodation request that is job-related and consistent with business necessity to determine the requester's functional limitations or barriers of employment to apply for a job, perform the essential job functions, or enjoy the benefits and privileges of the workplace. For a PAS, the RAC or Shared Service Provider may only seek medical information about providing services necessary to perform activities of daily living that an individual would typically perform if he or she did not have a targeted disability.

(4) If the initial information provided by the health professional or volunteered by the requester is insufficient for the RAC or Shared Service Provider to determine whether an accommodation or PAS is needed, they will specify the reasons additional information is needed. If necessary, the individual should then ask a health care provider or other appropriate professional to provide the missing information. If an individual declines to provide information requested by the RAC or Shared Service Provider within a reasonable period of time (but not to exceed 60 days), that may result in a denial of a request for reasonable accommodation or PAS.



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5. Confidentiality Requirements: Under the Rehabilitation Act, information obtained in connection with the reasonable accommodation process must be kept confidential. This means that the existence of an accommodation or PAS request, details of the request, whether it has been approved, and information about functional limitations or targeted disabilities, all must remain confidential. This includes any medical information that the PCLOB obtains in connection with a request for reasonable accommodation, which must be kept in the employee medical file (EMF), a file separate from the individual's personnel file. The EMF shall be maintained by the PCLOB Medical Records Officer (MRO), pursuant to the PCLOB's Employee Medical File Instruction. Any PCLOB employee who obtains or receives such information is strictly bound by these confidentiality requirements, consistent with the PCLOB's need to administratively process the request; however, medical information is only disclosed on a need-to-know basis.

a. The RAC may share certain information with an employee's supervisor or other agency staff as necessary to make appropriate determinations on a reasonable accommodation request. When the RAC must reveal the name of the individual requesting the reasonable accommodation, the RAC will inform the recipient of the information about these confidentiality requirements. The information disclosed will be no more than is necessary to obtain required assistance or advice from other PCLOB staff.

b. In addition to disclosures of information needed to process a request for a reasonable accommodation, other disclosures of medical information are permitted as follows:

i. Supervisors who need to know may be told about necessary accommodation restrictions on the work or duties of the employee, or logistical requirements necessary to provide the PAS;

ii. First aid and safety personnel may be told if the disability might require emergency treatment or assistance in evacuation;

iii. Worker's compensation officials may receive medical information in order to process or evaluate claims for this benefit; and

iv. Government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act.

c. Any medical documentation received by someone other than the RAC or Shared Service Provider (e.g., a letter from a health care provider to a supervisor), must be sent to the RAC and Shared Service Provider (if involved) to become part of the file for the applicable request. The RAC or Shared Service Provider will work with the PCLOB MRO to ensure the information is properly stored in the employee medical file, separate from the employee personnel file.²

² In the event a PCLOB employee receives medical documentation from another employee, it should be sent to RAC and then deleted. The RAC will track request types, nature, and conclusion.



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6. Failure to Provide Requested Information: The Requester's failure to provide appropriate documentation or to cooperate in efforts to obtain such documentation may result in a denial of a reasonable accommodation request.

7. Time Frames for Processing Requests and Providing Reasonable Accommodations: Generally, the time frame for processing a request, notifying the requester of the outcome, and providing a reasonable accommodation (if granted) is as soon as possible but no later than 45 calendar days from the date the request is made, absent extenuating circumstances (e.g., lack of awareness by the RAC, delayed receipt of documents, delays in acquiring specialty equipment). Where an accommodation can be provided in less than the maximum time frame, failure to provide an accommodation in a prompt manner may result in a violation of the Rehabilitation Act. Employees may track the status of their reasonable accommodation request by contact the RAC at RAC@pclub.gov.

a. When a reasonable accommodations request is submitted directly to the Shared Service Provider, the RAC should be informed by the Shared Service Provider of the requester's name and nature of the request within three calendar days of submission. The Shared Service Provider will process requests for reasonable accommodation and the PCLOB will provide an accommodation or PAS, if granted, in as short a time frame as reasonably possible. The time necessary to process a request will depend on the nature of the accommodation or PAS requested, and whether it is necessary to obtain supporting information.

b. If the RAC determines that a reasonable accommodation request must be referred to the Shared Service Provider for consultation, the PCLOB's 45-day calendar shall be tolled pending consultation with the Shared Service Provider.

8. Decisions on Requests that require Medical Information: The PCLOB's 45 calendar day time limit begins the day following receipt of the reasonable accommodation request. The PCLOB's 45 calendar day time limit may be tolled if the RAC or Shared Service Provider determines that medical documentation is needed to process the reasonable accommodation or PAS request. The time limit will be tolled until the medical documentation is received. The PCLOB will not be expected to adhere to its usual timelines if a requestor's health professional fails to provide needed documentation in a timely manner.

9. Notification of Delays and Temporary Measures: There may be additional extenuating circumstances that necessitate a delay or temporary measures. The RAC or Shared Service Provider must notify the requester, in writing, as soon as possible of the reason for the delay and the approximate date on which a decision, or provision of the accommodation or PAS, is expected. Any further developments or changes should also be communicated promptly, in writing, to the requester.

a. If there is a delay in deciding whether to grant a reasonable accommodation or a delay in providing an approved accommodation or PAS, the RAC or Shared Service Provider must explore whether temporary measures that do not interfere with PCLOB operations can be taken to assist the requester. Such measures could include providing the requested



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accommodation or PAS on a temporary basis or providing an alternate accommodation or PAS.

b. Where a temporary measure is provided, the RAC or Shared Service Provider must inform the requester in writing that the measure or accommodation is being provided on a temporary, provisional basis, pending a decision on the reasonable accommodation request or, as applicable, provision of the granted accommodation or PAS.

CHAPTER 3: EXPEDITED PROCESSING OF A REQUEST

1. Interim Accommodation: In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in less than 45 calendar days. The RAC, in consultation with the supervisor and/or Shared Service Provider will determine if an expedited decision would be appropriate, or if a temporary measure may be implemented instead, pending review of the reasonable accommodation according to the standard 45-day timeframe. If expedited processing is approved, the PCLOB may provide an interim accommodation or PAS by determination of the RAC or in consultation with Shared Service Provider, if it is determined that an interim accommodation or service is warranted during the expedited decision process. For example, an employee may need a sign language interpreter for a meeting scheduled to take place in five (5) days. Consideration of an interim accommodation will not toll the 45-calendar day-time frame. If an interim accommodation or service is not possible, the requester will be provided with a written explanation.

2. Resolution of the Reasonable Accommodation Request: All decisions regarding a request for reasonable accommodation will be communicated to an applicant or employee through the *Reasonable Accommodations and Personal Assistance Service Resolution Form* (see Appendix D).

3. Final Decision Granting a Reasonable Accommodation Request: If the PCLOB grants a request for an accommodation, the RAC or Shared Service Provider will give the *Reasonable Accommodations and Personal Assistance Service Resolution Form* to the requester and discuss implementation of the accommodation or PAS.

4. Final Decision Denying a Reasonable Accommodation Request: As soon as the RAC determines that a request for reasonable accommodation will be denied, including any partial denials, they must consult with the Chief Human Capital Officer and the General Counsel. The Chief Human Capital Officer and General Counsel will only serve as consultants, as concurrence is not required. Once the final determination is made, the RAC and supervisor will work with the Shared Service Provider (if required) to complete the *Reasonable Accommodation and Personal Assistance Service Resolution Form*, located at Appendix D, as well as a Final Decision Letter, and provide the documents to the requester. These documents will be provided to the requestor in an accessible format. The final decision must explain in detail the reason for the denial. The final decision will also advise the requester that they may seek reconsideration as provided below. The written decision shall state in plain language the specific reason(s) for the denial, such as, but not limited to, those listed below.



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- a. Undue hardship: A determination of undue hardship means the PCLOB finds that a specific accommodation would be significantly difficult or expensive to provide or would fundamentally alter the nature of PCLOB operations. When evaluating undue hardship, the PCLOB or Shared Service Provider will follow the standards enunciated in the EEOC's final regulations and *Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act*, both of which are available at: <http://www.eeoc.gov>.
- b. Insufficient medical documentation: The employee or applicant, when requested, did not provide sufficient medical documentation to establish that they have a covered disability, that the disability imposes limitations that require an accommodation or PAS, or that the requested accommodation or PAS addresses the limitations. It is the responsibility of the applicant/employee to provide appropriate medical information requested when the disability and/or the need for accommodation or PAS are not obvious or already known to the PCLOB.
- c. Removes essential function(s): The requested accommodation or PAS would require the removal of an essential function from the position occupied by the employee or from the position for which the applicant applied.
- d. Lowers standards: The requested accommodation or PAS would require lowering a performance or production standard.
- e. Not deemed a qualified individual with a disability: The RAC has determined the applicant or employee is unable to perform the essential functions of the position, even with an accommodation. In this case, the individual is not a qualified individual with a disability, as defined by the Rehabilitation Act.
- f. Direct threat: The individual poses a "direct threat" to the health and safety of themselves or others. In those instances, the RAC must consider the limitations of the individual, i.e., the risk posed by the medical condition, the duration of the risk, the nature and severity of the potential harm, the likelihood that the harm will occur, and imminence of the potential harm. Direct threat determinations are made on an individualized assessment of the requester'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.
5. Finality of decision: A decision regarding a request for a reasonable accommodation or PAS is final once the RAC completes the analysis and communicates the decision through the *Reasonable Accommodations and Personal Assistance Service Resolution Form*. However, a requester may pursue the appeals/reconsideration process outlined below.
6. Reconsideration Request: A requester dissatisfied with the resolution of a reasonable accommodation request can ask the RAC to reconsider that decision. An individual must request reconsideration within ten business days of receiving the *Reasonable Accommodations and*



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Personal Assistance Service Resolution Form. A request for reconsideration will not extend the time limits for initiating administrative, statutory, or collective bargaining claims.

7. Avenues for redress of reconsideration decision: The PCLOB's reasonable accommodation policy does not modify or replace statutory or regulatory protections and procedures for individuals with disabilities who wish to challenge the denial of a request for reasonable accommodation. If the reconsideration official sustains the initial decision, the requester may seek redress as described below.

8. Equal Employment Opportunity (EEO) complaint: To file an EEO complaint pursuant to 29 C.F.R. Part 1614, applicants for employment or employees must contact an Agency-designated EEO point of contact or the EEO Director within 45 calendar days of receiving the *Reasonable Accommodation and Personal Assistance Service Resolution Form*, as well as a Final Decision Letter. Applicants for employment or employees should contact the EEO Director for additional information.

9. Voluntary Informal Dispute Resolution: Former and current PCLOB employees and internal applicants also have the option of going to the Shared Service Provider to discuss their dissatisfaction with the handling of their request, regardless of whether they ask for reconsideration.

10. Information Tracking and Reporting: All PCLOB reasonable accommodations will be tracked by the RAC and EEO Director, as well as the Shared Service Provider, when referred.

11. Renewal of accommodation or PAS: Requestors are not required to resubmit their reasonable accommodation request, once they have been approved. However, requestors are encouraged to advise the RAC on an annual basis whether the granted accommodation or PAS are still needed and effective.

12. Custody of records: The RAC or Shared Service Provider, as applicable, will be the official custodian of the official reasonable accommodation files. As soon as the process is completed (e.g., after the final decision if reconsideration is not sought, or after the reconsideration decision is issued if reconsideration is requested), the Shared Service Provider official in possession of the reasonable accommodation request file will submit the entire record, including copies of the request, the decision, and the supporting documentation to the appropriate personnel within their organization. All records will be maintained in accordance with the Privacy Act, and OASP 1820.1 Shared Service Provider Records Management Program. Medical Records provided to the PCLOB will be maintained consistent with the PCLOB's Employee Medical Files instruction.



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Appendix A: Definition of Key Terms

Accommodation: As used in this policy, an accommodation is (i) modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or (ii) modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable an individual with a disability who is qualified to perform the essential functions of that position; or (iii) modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

Disability: With respect to an individual means (1) a physical or mental impairment that substantially limits one or more major life activities (sometimes referred to in the regulations as an “actual disability”); (2) a record of having a physical or mental impairment that substantially limits a major life activity (“record of”); or (3) being regarded as having such an impairment—meaning the individual has been subjected to an action prohibited by the Americans with Disabilities Act (ADA) because of an actual or perceived impairment that is not both transitory and minor (“regarded as”). Individuals meeting the definition of disability solely under the “regarded as” prong are not entitled to reasonable accommodation. An impairment that is episodic or in remission is a disability if it substantially limits a major life activity when active.

Employee: An individual employed by the Privacy and Civil Liberties Oversight Board, to include staff members, counselors, Board Members, and detailees. Contractors are not considered employees for this purpose; however, individual contractors may consult with their contract employer, to determine the employer’s responsibilities under Section 503 of the Rehabilitation Act.

Essential Functions: Essential functions are those job duties that are fundamental to the position that the individual holds or desires. The term “essential functions” does not include marginal functions of the position. “Marginal functions” are those job duties that are less critical to the success or failure of the specific position. A function can be “essential” if, among other things: the position exists to perform the function; a limited number of other Employees are available to perform the function; or the function is highly specialized, and the individual is hired based on having those specialized skills.

Determination of whether a function is essential must be completed on a case-by-case basis because the duties of a specific job may deviate from what is indicated in a position description or from the duties of employees holding a similar job.

Extenuating Circumstances: Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation (e.g., identified software such as a Screen Reader is not compatible with existing equipment).



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Health Care or Rehabilitation Professional: A person who has completed a course of study and is licensed to practice in a field of health care, which includes the diagnosis and assessment of the disability or disabilities in question.

Interactive Process: The interactive process refers to an information-gathering approach used to evaluate a request for accommodation. It is intended to be a flexible approach that centered on communication between an employer and a requester. The person who will decide whether to grant or deny a reasonable accommodation engages in a discussion with the requester and other relevant individuals (e.g., a supervisor, a requestor's health care provider) to collect relevant information necessary to make an informed decision on the accommodation request.

Interim Accommodation: Any temporary or short-term measure put in place until a granted accommodation is available.

Major Life Activities: Major life activities include activities such as 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, and working. Major life activities also include the operation of major bodily functions, including 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 functions.

Medical Documentation: Documentation that explains the nature, severity, and duration of the disability; the impact of the disability on and off the job; the extent to which the impairment(s) limits the individual's ability to perform functions of the job; the estimated date of full or partial recovery; a medical professional's assessment of the individual's ability to successfully perform the essential functions of the position; and how the particular accommodation will assist the individual in performing the essential functions of the position.

Mental Impairment: Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness (major depression, bipolar disorder, anxiety disorders), schizophrenia, and specific learning disabilities.

Personal Assistance Services: Personal assistance services (PAS) means 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 reasonable accommodation, including, for example, assistance with removing and putting on clothing, eating, and using the restroom. PAS does not include the provision of medical services, such as administering shots, or conducting medical monitoring. Unlike reasonable accommodations, PAS does not include assistance with helping an employee perform their specific job functions.

Physical Impairment: Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems such as: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, immune systems,



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respiratory, genitourinary, hemic, circulatory and lymphatic, skin, normal cell growth, and endocrine system.

Qualified Individual with a Disability: An individual with a disability is qualified for the position that such individual holds or desires if the individual (1) satisfies 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.

Reasonable Accommodation: As used in this policy, reasonable accommodation refers to the process of requesting either an accommodation or PAS.

Reassignment: Reassignment to a vacant position for which an employee is qualified, and not just permission to compete for such position, is a reasonable accommodation. Reassignment is generally used as a last resort, when the PCLOB determines that no other reasonable accommodation will permit an employee with a disability to perform the essential functions of his or her current position. A reassignment is made only to a vacant position that the agency has authorized to be filled at the time of the accommodation request and intends to fill. Where possible, reassignment is to an equivalent position, but if no equivalent position is available, may be to a lower-level position that is as close as possible to the employee's current position. If the employee is qualified for such a position and the agency chooses to offer it as an accommodation, the employee will be reassigned to the new job and will not be required to compete for it. Supervisors may explore current vacancies by consulting with the RAC and CHCO.

Supervisor: The individual directly responsible for providing direction or supervision of an employee. In the case of the Executive Director or General Counsel, the Chairman (or the remaining Board Members, in the absence of a Chairman) shall serve as the supervisor. Board Members shall serve as the supervisors of their individual Counselors.

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 may be found here:

https://www.opm.gov/Forms/pdf_fill/sf256.pdf.

Undue Hardship: Undue hardship means that an employer would incur significant difficulty or expense in providing a certain reasonable accommodation. The Rehabilitation Act does not require the agency to provide a reasonable accommodation that causes an undue hardship. Determination of undue hardship is made on a case-by-case basis, considering such factors as the nature and net costs of the accommodation, the overall financial resources of the agency, and the impact of the accommodation on the operation of the agency, including the impact on the Agency's ability to conduct business. Most undue hardship assessments involve non-financial considerations, such as the timely performance of job duties and the ability to effectively serve



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the public. The agency must consider the resources of the agency as a whole, not simply the budget of a specific office, when determining whether an accommodation imposes significant cost; however, the agency does not have to include any funding Congress designates for a specific purpose that does not include provision of reasonable accommodation.



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Appendix B: Additional Reasonable Accommodation and Personal Assistance Services Resources

EEOC Reasonable Accommodation and Personal Assistance Services Resources

The EEOC provides information that addresses the reasonable accommodation obligation required under the Rehabilitation Act, including the Commission's "*Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act*," available at <http://www.eeoc.gov/policy/docs/accommodation.html>. Additionally, the following information may be helpful:

- EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act, www.eeoc.gov/policy/docs/guidance-inquiries.html.
- Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, www.eeoc.gov/policy/docs/accommodation_procedures.html.
- EEOC Efforts For Veterans with Disabilities, <https://www1.eeoc.gov/laws/types/veterans.cfm?redirected=https://www.eeoc.gov/laws/types/disability.cfm>.

The EEOC also provides information on the Americans with Disabilities Act (or ADA) and various leave issues, including the following:

- Employer-Provided Leave and the Americans with Disabilities Act, <https://www.eeoc.gov/eeoc/publications/ada-leave.cfm>.
- Revised Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, www.eeoc.gov/policy/docs/accommodation.html (see "Leave" under "Types of Reasonable Accommodations").
- Enforcement Guidance on Pregnancy Discrimination and Related Issues, www.eeoc.gov/laws/guidance/pregnancy_guidance.cfm (see section II.B., ADA and Reasonable Accommodation).
- The Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964, www.eeoc.gov/policy/docs/fmlaada.html (see "Comparison of ADA and FMLA "Leave" and "ADA Compliance When the FMLA Also Applies").
- Enforcement Guidance: Workers' Compensation and the ADA, www.eeoc.gov/policy/docs/workcomp.html (see "Return to Work Decisions" and "Reasonable Accommodation").
- The Americans with Disabilities Act: Applying Performance and Conduct Standards to Employees with Disabilities, www.eeoc.gov/facts/performance-conduct.html (see "Attendance issues").

EEOC also provides information about specific types of disabilities and the most common reasonable accommodations for them; reasonable accommodations for types of workplaces (e.g.,



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health care facilities); and leave and telework. This information is available at <https://www.eeoc.gov/laws/types/disability.cfm>.

Information on EEOC's ergonomics program is available at <http://insite.eeoc.gov/EEOCWide/BEST/upload/ergo-faqs.html>.

ADA Disability and Business Technical Assistance Centers (DBTACs)

1-800-949-4232 (Voice/TTY)

The DBTACs consist of 10 federally funded regional centers that provide information, training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance, and places special emphasis on meeting the needs of small businesses. The DBTACs can make referrals to local sources of expertise in reasonable accommodations.

Job Accommodation Network (JAN) - 1-800-526-7234 (Voice); 1-877-781-9403 (TTY);

<http://askjan.org>; is funded by the U.S. Department of Labor's Office of Disability Employment Policy and provides information on the Americans with Disabilities Act and a wide range of reasonable accommodations options for many different types of disabilities.



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Appendix C: Reasonable Accommodation Request Form

<p>Name and Job Title:</p> <p>Telephone and Email:</p> <p>Supervisor Name, Title, and Email:</p> <p>What, if any, job function or activities of daily living are you having difficulty performing?</p> <p>If you have suggestions for accommodation or Personal Assistance Service (PAS), please provide potential options we can explore here.</p>
<p>Have you had any accommodations or PAS in the past for the same limitation(s)? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p align="center">If <i>yes</i>, please attach previously- approved accommodations/PAS form.</p> <p>If you are requesting a specific accommodation/PAS, how will that accommodation/PAS assist you?</p>
<p>Please provide any additional information that might be useful in processing your accommodation/PAS request:</p> <p>_____ _____</p> <p>Signature Date</p> <p>Return this form to your supervisor, the RAC, or the Chief Human Capital Officer/servicing HR Specialist for the job posting, along with relevant supporting documentation.</p>

Applicant
 Performing Job Functions/Accessing Work Environment
 Accessing Benefit/Privilege

Privacy Act Statement: Collection of this information is authorized by The Rehabilitation Act of 1973, 29 U.S.C. 791 and Executive Order 13164. This information will be used for the purpose of considering and implementing requests for reasonable accommodation made by Privacy and Civil Liberties Oversight Board (PCLOB) employees and job applicants. Disclosure of this information is voluntary but failing to provide all requested information may delay the processing and/or corresponding resolution of your request.



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Appendix D: Reasonable Accommodation Resolution Form

Privacy Act Statement: Collection of this information is authorized by The Rehabilitation Act of 1973, 29 U.S.C. 791 and Executive Order 13164. This information will be used for the purpose of considering and implementing requests for reasonable accommodation made by Privacy and Civil Liberties Oversight Board (PCLOB) employees and job applicants. Disclosure of this information is voluntary but failing to provide all requested information may delay the processing and/or corresponding resolution of your request.

Name and Title of Individual Requesting Accommodation or Personal Assistance Services (PAS):

Date of initial request:

Date of resolution issuance:

Decisions(s)

- Approved as specifically requested
- Approved but different from original request
- Denied

Type of Accommodation/Personal Assistance Service (PAS) Requested:

Type of Alternative Accommodation/PAS:

Request Denied Due to (check all that apply) **

- Requestor not a Qualified Individual with a disability
- Undue hardship
- Medical documentation inadequate or insufficient
- Removal of essential functions
- Lowering performance or production standards
- Other
- Not applicable; accommodation was approved

***If request is denied (fully or not accommodated in the manner requested), See attached Final Decision Letter.*

Deciding Official, please sign below:

Signature

Date

The shared service provider will complete this form on behalf of the PCLOB EEO Program.