

**State of California
Department of General Services**



**Procedures for Providing
Reasonable Accommodation
For
Individuals with Disabilities**

Adapted from the guidelines provided by the
U.S. Equal Employment Opportunity Commission



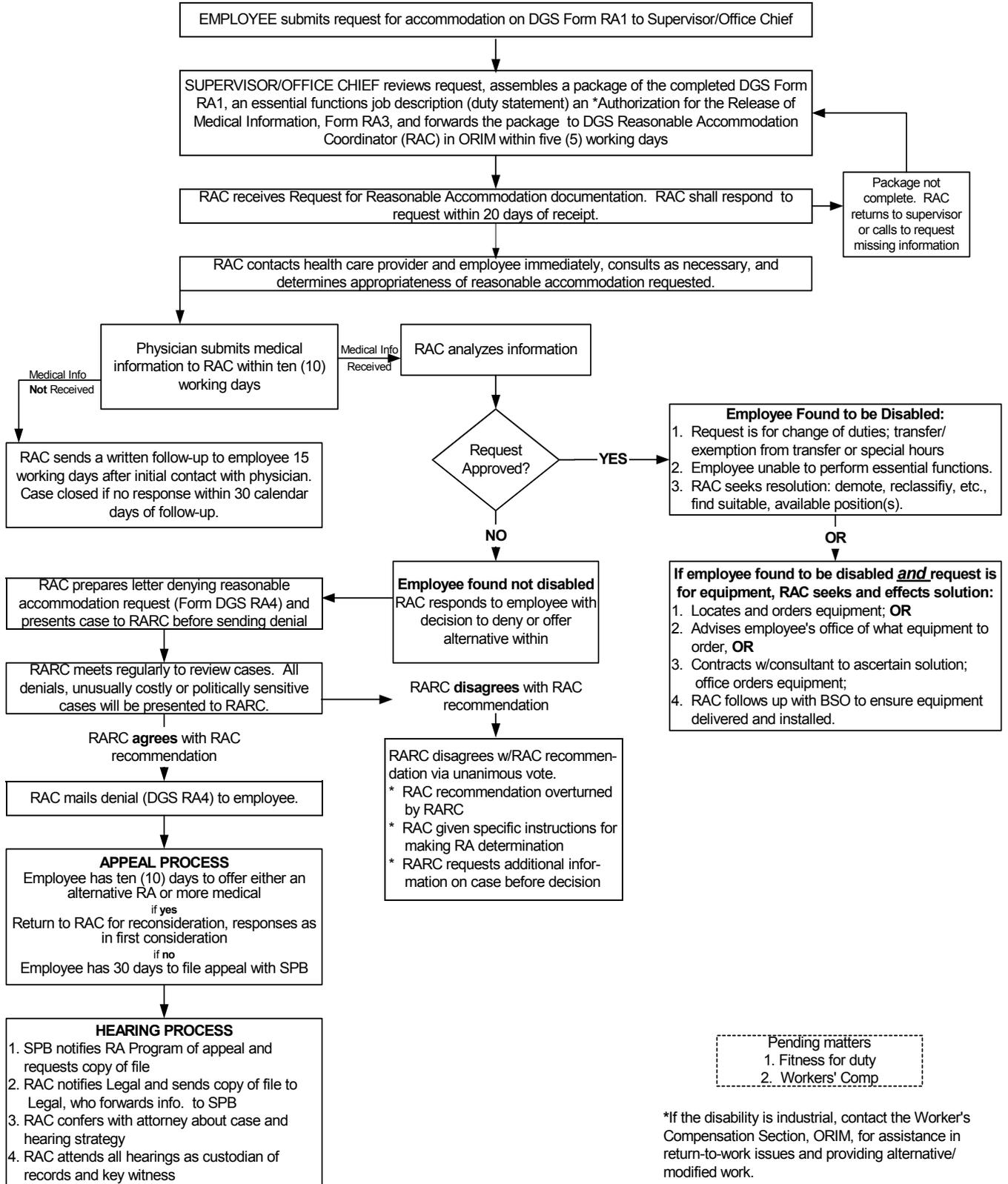
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Department of General Services
REASONABLE ACCOMMODATION (RA) PROCESS FLOW CHART

Rev 4/28/03



*If the disability is industrial, contact the Worker's Compensation Section, ORIM, for assistance in return-to-work issues and providing alternative/modified work.

[Time frames found in SPB regulations, Article 4, Sec. 53.2]

Summary of DGS Reasonable Accommodation Procedures

Background:

Effective January 1, 2001, California's Fair Employment and Housing Act (FEHA) was amended to provide significantly broader protections to employees with disabilities. The amendments include an express declaration that the California statutes are intended to extend beyond the federal Americans With Disabilities Act (ADA): broadening the definition of "disability", delineating new and different unlawful employment practices arising from certain pre-employment and post-employment inquiries, and prohibiting failure to engage in a timely, good faith interactive process with the employee to determine a reasonable accommodation for the disability.

The amendments make it an unlawful employment practice for an employer to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known disability or medical condition. Reasonable accommodation may include such measures as: making existing facilities readily accessible to and usable by individuals with disabilities; job restructuring; part-time or modified work schedules; acquisition or modification of equipment or devices, adjustment or modification of examinations, training materials or policies; the provision of qualified readers or interpreters, and other similar actions. As a last resort, reassignment to a vacant position can be considered, provided the individual meets the minimum qualifications of the classification and can perform the essential functions of the job.

Procedure:

1. Individual makes **request** for reasonable accommodation (See Sections I & II):
 - An **employee** can request reasonable accommodation from his/her Supervisor, management, the Reasonable Accommodation Coordinator (RAC) in the Office of Risk and Insurance Management (ORIM) or the ADA Coordinator.
 - For record keeping purposes, individuals must follow up a verbal request either by completing a Request for Reasonable Accommodation form (Form DGS RA1) or by confirming their request in writing (including by e-mail) to the RAC.
2. The staff member receiving the request will be responsible for forwarding it to the Supervisor for review, form completion and routing to the RAC for review and processing.

3. **Time frames for processing requests and providing reasonable accommodation** (See Section VIII):

- The request shall be processed within a reasonable time from the date received by the RAC. The RAC will have the responsibility for working with the employee and the employee's Supervisor during an interactive process to resolve the reasonable accommodation request. The request processing will not exceed 20 working days beginning the day the complete package is received by the RAC.
- DGS will establish a **Reasonable Accommodation Review Committee (RARC)** that will meet as necessary to decide on the request to provide the accommodation within **20 working days** from the date the request was initially made. The RARC will work closely with the RAC and meet to resolve particularly difficult, complex or politically sensitive requests. It will also review all denials of reasonable accommodation requests.
 - The RARC will consist of:
 - A C&P Assistant Manager or Exam Analyst (OHR)
 - The RAC (ORIM)
 - The Workers' Comp Unit Representative from the Office of Risk and Insurance Management (ORIM)
 - The ADA Coordinator or representative from the EEO Office
 - An attorney from DGS' Legal Office (as needed for advice, but not a voting member of the committee)
 - Each RARC member must have a designated back-up to continue the RARC function in the member's absence. RARC members should ensure that individuals know who has been designated as back-up. The time frames discussed in Section VIII, will **not** be suspended or extended because of the unavailability of an RARC member.
 - If medical documentation is required, time frames may be longer. (See Section VIII).

4. **Denial of reasonable accommodation** must be recorded on the "Denial of Request" form (Form DGS RA4). All denials will automatically be reviewed by the RARC within 10 working days of the date of denial. The form explains the individual's right to ask for reconsideration, first from the Reasonable Accommodation Review Committee and then from another designated individual.

If an individual wishes to request reconsideration of the decision s/he may take the following steps:

First, ask in writing that the RARC reconsider his/her denial. Additional information may be presented to support the request.

If the RARC does not reverse the denial, the employee has thirty (30) days from the date of denial to file a written appeal with the State Personnel Board.

5. The RAC must complete the **"Information Reporting" form** within **ten business days** of the decision. (See Section XII).

I. DGS Policy on Reasonable Accommodation

DGS's policy is to fully comply with the reasonable accommodation requirements of the Fair Employment and Housing Act (FEHA). Under the law, state agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship. DGS is committed to providing reasonable accommodations to its employees and applicants for employment in order to ensure that individuals with disabilities enjoy full access to equal employment opportunity at DGS. DGS provides reasonable accommodations:

- when an applicant with a disability needs an accommodation in order to be considered for a job
- when an employee with a disability needs an accommodation to enable him or her to perform the essential functions of the job or to gain access to the workplace
- when an employee with a disability needs an accommodation to enjoy equal benefits and privileges of employment, and
- when a non-employee needs an accommodation

Employees may refer to the EEOC's *"Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act"* (available on EEOC's internet site <http://www.eeoc.gov/>) for additional information on the rights and responsibilities of applicants and employees requesting reasonable accommodation. Information on the responsibilities of DGS personnel involved in responding to reasonable accommodation requests is available on DGS' ORIM's Intranet site (<http://orim.dgs.ca.gov/>).

DEFINITION OF KEY TERMS

- **ADA Coordinator:** The individual assigned this role works in the department's Equal Employment Opportunity Office (EEO). This person serves as the ADA Program Compliance Officer and is responsible for the development, implementation, management and operation of program accessibility issues within the department's programs.
- **C&P Member:** Classification and Pay Analyst. Individuals assigned this role work in the department's Office of Human Resources. This person ensures appropriate classifications are assigned to positions throughout the department, as well as makes decisions on pay, return to work, merit, and staffing issues.

- **Disability:** California’s FEHA now defines “disability” as a mental or physical condition that limits major life activity – as compared to the ADA, which defines “disability” as a mental or physical impairment that *substantially* limits a major life activity. Under the amended FEHA, a mental or physical condition limits a major life activity if it makes the achievement of that life activity difficult. Moreover, major life activities are to be broadly construed to include physical, mental and social activities, and working. Specifically excluded from the definition of mental disability are sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance abuse disorders resulting from the current unlawful use of controlled substances or other drugs.

Additionally, under the amended FEHA, whether a condition limits a major life activity is to be determined without respect to any mitigating measures (unless the mitigating measure itself limits a major life activity). Once again, this provision differs from federal law under the ADA, where such mitigating measures are included in determining whether an individual has a disability. In other words, under FEHA, the availability of medication or an assistive device that assists the individual in overcoming the limitations of his/her disability is **not** considered in determining whether the individual has a disability that is protected under the law.

Lastly, under the amended FEHA, “working” is deemed to be a major life activity, regardless of whether the limitation implicates one particular job or a class or broad range of jobs. As such, California’s FEHA again exceeds the protections afforded by the ADA (where the limitation must implicate a class or broad range of jobs).

- **Essential Functions:** Government Code Section 12926(f) defines essential functions as “*the fundamental job duties of the employment position the individual with a disability holds or desires.*” 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; or the function is highly specialized and the individual is hired based on his/her expertise or ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.
- **FEHA (Fair Employment and Housing Act):** Effective January 1, 2001, California’s Fair Employment and Housing Act (FEHA) was amended to provide significantly broader protections to employees with disabilities. The amendments include an express declaration that the California statutes are intended to extend beyond the federal Americans with Disabilities Act (ADA): broadening the definition of “disability”, delineating new and different unlawful employment practices arising from certain pre-employment and post-employment inquiries,

and prohibiting failure to engage in a timely, good faith interactive process with the employee to determine a reasonable accommodation for the disability.

- **Qualified Individual with a Disability:** An individual with a disability is qualified if (1) s/he satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) s/he can perform the essential functions of the position, with or without reasonable accommodation.
- **RAC:** Reasonable Accommodation Coordinator. The individual assigned this role works in the Office of Risk and Insurance Management . The RAC is responsible for the management and tracking of reasonable accommodation requests as well as initiating the mandatory interactive process.
- **RARC:** Reasonable Accommodation Review Committee. Reviews all denials of reasonable accommodation requests, as well as requests that may be considered as sensitive or unusually costly, and is comprised of the RAC, a C&P staff member, departmental ADA Coordinator and a Workers Compensation Unit representative from ORIM.
- **Reasonable Accommodation:** Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities.
- **Reassignment:** Reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made to any vacant position for which she or he is qualified, even if there are other candidates who are more qualified or have greater seniority. If the employee is qualified for the position, s/he will be reassigned to the job and will **not** have to compete for it.
- **Undue Hardship:** If a specific type of reasonable accommodation causes *significant difficulty or expense*, then DGS does not have to provide that particular accommodation. Determination of undue hardship is always made on a case-by-case basis.

II. Requests for Reasonable Accommodation

A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition. **The reasonable accommodation process begins as soon as the request for accommodation is made.**

A request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation whenever s/he chooses, even if s/he has not previously disclosed the existence of a disability. **Any DGS employee or applicant may consult the RAC or ADA Coordinator for further information or assistance** in connection with requesting or processing a request for reasonable accommodation.

- An **employee** may request a reasonable accommodation **verbally or in writing** from his/her Supervisor; another Manager in his/her immediate chain of command; or the RAC. A reasonable accommodation request form will be given to the employee to complete (DGS Form RA1).
- A non-employee (public member) **applicant** may request a reasonable accommodation verbally or in writing from any DGS employee with whom the applicant has contact in connection with the application process. Field Office/Branch Chiefs also should ensure that **all staff** having contact with applicants know how to recognize and handle requests for reasonable accommodation. A reasonable accommodation request form will be given to the interested individual to complete (DGS Form RA1).
- A **family member, health professional, or other representative** may request an accommodation on behalf of a DGS employee or applicant. The request should go to one of the same persons to whom the employee or applicant would make the request.

Reasonable Accommodation request packages should include the following information:

- Explanation of the limitation that requires the accommodation. Give specific description of the accommodation being requested.
- If equipment is needed, if known, please specify brand and model number and a vendor.
- Specify in detail how the accommodation requested will allow the employee to perform the essential functions of the job.

- Employee is responsible for ensuring a health professional's documentation substantiates the limitations or restrictions by objective evidence of the need for reasonable accommodation. The employee is responsible for any expenses incurred in providing this information to the Department. Exceptions to this requirement are those instances in which the employee's disability is obvious, such as paraplegic or blindness.
- The "Authorization for the Release of Medical Information" must be attached to the original request for reasonable accommodation when submitted to the Supervisor/Office Chief.
- Also attached must be a current duty statement that lists the essential functions of the employee's assignment as well as duties considered non-essential. For assistance in preparing the document, contact your personnel liaison.
- Some examples of accommodations the RAC may consider are:
 - Requests for **adaptive equipment, including information technology and communications equipment, or specially designed furniture**. The DGS Safety Officer will coordinate adaptive equipment requests with the ADA Coordinator.
 - Requests for **a reader or sign language interpreter, or other staff assistant to enable employees to perform their job functions, where the accommodation cannot be provided by current staff**. The ADA Coordinator will coordinate such requests with the Office of Risk and Insurance Management.
 - Requests for the **removal of an architectural barrier(s), including reconfigured work spaces**. The ADA Coordinator will coordinate these requests with the Division of the State Architect and the Real Estate Services Division, or the building management if the location is leased office space.
 - Requests for **accessible parking**.
 - Requests for **materials in alternative formats (e.g., braille, large print) which cannot be handled by the Supervisor or Office/Branch Chief**.
 - Requests for **reassignment to another job**. The RAC in ORIM will coordinate these requests.

III. Written Requests for Record Keeping Purposes

To enable DGS to keep accurate records regarding requests for accommodation, managers and supervisors **must follow up a verbal request by completing the reasonable accommodation request form (DGS Form RA1) or otherwise confirming their request in writing (including by e-mail) to the RAC.**

A written confirmation is not required when an individual needs a reasonable accommodation on a repeated basis (e.g., the assistance of sign language interpreters or readers). The written form is required only for the first request although, of course, appropriate notice must be given each time the accommodation is needed.

IV. Who Will Process the Request?

The request should be forwarded to the Reasonable Accommodation Coordinator (RAC) in the Office of Risk and Insurance Management **as soon as possible but in no more than five business days**. All referrals must be copied to the EEO Office, Attn: ADA Coordinator.

- **All requests for accommodation will be reviewed by the RAC who will process the request and provide the reasonable accommodation using the interactive process.**
- When a reasonable accommodation requiring purchase of equipment is approved, it will be the responsibility of the Business Services Officer or Office/Branch Chief to place the order on an expedited basis.
- When the equipment is received, either the Business Services Officer, the Office/Branch Chief, or the employee's Supervisor will notify the RAC.

V. The Interactive Process

The next step is for the parties to begin the interactive process to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation and the DGS RAC must talk to each other about the request, the process for determining whether an accommodation will be provided, and potential accommodations.

Communication is a priority throughout the entire process. The DGS RAC will have the principal responsibility for identifying possible accommodations. The RAC will take a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee requesting the accommodation should also participate to the extent possible in helping to identify an effective accommodation. Some resources that are available to help both the RAC and the individual requesting the accommodation to identify possible accommodations are listed in the “State Price Schedule for Adaptive Equipment and Services for Persons with Disabilities,” or through the Job Accommodation Network (JAN). The ADA Coordinator, is also available to provide assistance.

The Ninth Circuit Court of Appeals discussed the interactive process required by the Equal Employment Opportunity Commission (EEOC) in interpreting the ADA in the case of Barnett v. U.S. Airlines. The court noted the four steps to the interactive process as prescribed by the EEOC:

Step No.	Instruction
One	Identify the barriers caused by the disability, including examining the essential versus nonessential duties of the position
Two	Identify all possible accommodations ¹ .
Three	Assess the reasonableness of each accommodation in terms of effectiveness and equal opportunity for the employee.
Four	Implement the accommodation most appropriate for both employee and employer that does not impose an undue hardship on the employer’s operation. The expressed choice of the employee should be given primary consideration, but if an alternative accommodation exists that would allow the employee to be effective at performing the essential functions of the job, the employer may choose that alternative accommodation.

¹ The Department of Rehabilitation recommends contacting the Job Accommodation Network for assistance in identifying all possible accommodations. They can be contacted by phone at: 1-800-ADA-WORK (1-800-232-9675), or on the world wide web at <http://janweb.icdi.wvu.edu>.

The employer and the employee are obligated to participate in the interactive process in good faith and are required to communicate directly and exchange essential information so as to work towards the shared goal of identifying an effective reasonable accommodation.

- When a request for accommodation is made by a third party, the RAC should, if possible, confirm with the applicant or employee with a disability that s/he, in fact, wants a reasonable accommodation before proceeding. It may not be possible to confirm the request if the employee has, for example, been hospitalized in an acute condition. In this situation, DGS will process the third party's request and will consult directly with the individual needing the accommodation as soon as it is practicable.
- On-going communication is particularly important where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are considering different possible reasonable accommodations. In those cases where the disability, the need for accommodation, and the type of accommodation that should be provided are clear, extensive discussions are not necessary. Even so, the RAC and requesting individual should talk to each other to make sure that there is a full exchange of relevant information.
- The RAC is encouraged to examine the work site conditions and observe the employee requesting accommodation while performing the functions of his/her assignment to gain further understanding of the requested accommodation and/or existing barrier.
- The RAC or any other DGS official who receives information in connection with a request for reasonable accommodation may share information connected with that request with other agency officials **only when the agency official(s) need to know the information in order to make determinations on a reasonable accommodation request.** See Section VII for specific rules governing the confidentiality of medical information.
 - There are specific considerations in the interactive process when responding to a **request for reassignment.**
 - Reassignment will only be considered if no accommodations are available to enable the individual to perform the essential functions of his or her current job, or if the only effective accommodation would cause undue hardship.
 - In considering whether there are positions available for reassignment, the RAC will work with the Office of Human Resources (OHR), the ADA

Coordinator, and the individual requesting the accommodation to identify:

- (1) all vacant positions within the agency for which the employee may be qualified, with or without reasonable accommodation; and
- (2) all positions which OHR has reason to believe will become vacant over the next **30 working days** and for which the employee may be qualified.

The agency will first 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, DGS will consider vacant lower level positions for which the individual is qualified.

- Reassignment may be made to a vacant position outside of the employee's commuting area if the employee is willing to relocate. As with other transfers not required by management, DGS will not pay for the employee's relocation costs.

VI. Does the Individual Requesting the Accommodation Have a Disability?

Requests for Medical Information

DGS is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation. When a disability and/or need for reasonable accommodation is not obvious or otherwise already known to the RAC, DGS may require that the individual provide reasonable documentation about the disability and his or her functional limitations.

- If the RAC believes that further medical information is necessary in order to evaluate a request for reasonable accommodation, s/he will obtain such information.
- The RAC will make a determination as to whether medical documentation is necessary. If it is, s/he will request the necessary medical information. If it is not necessary, the request for accommodation will complete the processing.
- If a determination is made to seek medical information, DGS will request information sufficient to substantiate that the individual has a disability and needs the reasonable accommodation requested, but will not ask for unrelated documentation.
- The RAC will seek information or documentation about the disability and/or functional limitations from the individual, and/or ask the individual to obtain such information from an appropriate medical provider, such as a doctor, social worker, or rehabilitation counselor. *In order to get the most helpful possible information, all requests for information should describe the nature of the job, the essential functions the individual is expected to perform, a position analysis (if relevant), and any other relevant information.* The RAC may work with the Supervisor and/or Office/Branch Chief in seeking appropriate information.
- Once the medical documentation is received, the RAC will evaluate it, in consultation with a physician chosen by DGS, if necessary.
- If the information provided by the health professional (or the information volunteered by the individual requesting the accommodation) is insufficient to enable DGS to determine whether an accommodation is appropriate, the RAC may ask for further information.
- First, however, the RAC will explain in writing to the individual seeking the accommodation, in specific terms, why the information that has been provided is

insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request.

- The individual may then ask the health care or other appropriate professional to provide the missing information within 30 calendar days.
- Alternatively, the RAC and the individual requesting the accommodation may agree that the DGS RAC may thereafter submit a list of specific questions to the individual's health care professional or may otherwise contact the individual's doctor.
- If, after a reasonable period of time, there is still not sufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, the RAC may request that the individual be examined by a physician chosen by DGS.
- The RAC will determine whether the documentation demonstrates that a reasonable accommodation is appropriate and provide, if necessary, any additional relevant information about the individual's functional limitations.
- In some cases, the individual requesting the accommodation may supply medical information directly to the RAC without being asked. In these cases, the RAC will consider such documentation.

The failure to provide appropriate documentation or to cooperate in DGS's efforts to obtain such documentation can result in a denial of the reasonable accommodation.

VII. Confidentiality Requirements Regarding Medical Information Obtained in the Reasonable Accommodation Process

Medical information obtained in connection with the reasonable accommodation process must be kept confidential. This means that all medical information, including information about functional limitations and reasonable accommodation needs, that DGS obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's official personnel file. It also means that any DGS employee who obtains or receives such information is strictly bound by these confidentiality requirements to the extent possible.

- The RAC will maintain custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records, and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act and the requirements of FEHA , the Americans with Disabilities Act, and EEOC Order 150.003.
- This information may be disclosed **only** as follows:
 - Supervisors and managers who need to know (including the Reasonable Accommodation Review Committee) may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), but medical information should only be disclosed if strictly necessary.
 - First aid and safety personnel may be informed, when appropriate, **if** the disability might require emergency treatment;
 - Government officials may be given information necessary to investigate the agency's compliance with the Fair Employment and Housing Act (FEHA); and
 - The information may in certain circumstances be disclosed to workers' compensation offices or insurance carriers.
- Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that attach to it.

VIII. Time Frames for Processing Requests and Providing Reasonable Accommodations

DGS will process requests for reasonable accommodation as previously set forth and then provide accommodations, where they are appropriate, in as short a time frame as reasonably possible. DGS recognizes, however, that the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information.

- A. The RAC will make a decision on the request and the accommodation, if granted, will be provided **within a reasonable time** from the date the request was initially made, absent extenuating circumstances. If medical documentation is necessary, the decision will be made **within 20 working days** from the receipt of the documentation, absent additional extenuating circumstances.
- B. **Extenuating Circumstances:** These are **factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation**. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. It is DGS's policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. All DGS staff is expected to act as quickly as reasonably possible in processing requests and providing accommodations. The following are examples of extenuating circumstances, but are not the sole reasons for extenuating circumstances:
 - There is an outstanding initial or follow-up request for medical information, or the RAC is evaluating medical information that has been provided.
 - The purchase of equipment may take longer than 20 working days.
 - Equipment must be back-ordered, the vendor typically used by DGS for goods or services has unexpectedly gone out of business, or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
 - The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before DGS buys it.
 - New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.

"Extenuating circumstances" covers limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. For example, DGS may not delay processing or providing an accommodation because a particular staff member is unavailable

Where extenuating circumstances are present, **the RAC must notify the individual of the reason for the delay, and the approximate date on which a decision, or provision of the reasonable accommodation, is expected.** Any further developments or changes should also be communicated promptly to the individual.

- If there is a delay in providing an accommodation that has been approved, the RAC must investigate whether **temporary measures** can be taken to assist the employee. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation. In addition, the RAC may provide measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an essential function) if: (1) they do not interfere with the operations of the department/agency; and (2) the employee is clearly informed that they are being provided only on a temporary, interim basis.
- If a delay is attributable to the need to obtain or evaluate medical documentation and DGS has not yet determined that the individual is entitled to an accommodation.

IX. Granting a Reasonable Accommodation Request

As soon as the RAC determines that a reasonable accommodation will be provided, that decision should be immediately communicated to the individual. If the accommodation cannot be provided immediately, the RAC must inform the individual of the projected time frame for providing the accommodation. This notice does not need to be in writing.

X. Denial of Reasonable Accommodation Request

As soon as the RAC determines that a request for reasonable accommodation will be denied, s/he must fill out the "Denial of Request" form (DGS RA4. ***All denials will first be reviewed by the RARC before sending the written denial decision to the individual requesting the reasonable accommodation.*** The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. Where the RAC has denied a specific requested accommodation, but offered to make a different one in its place which was not agreed to during the interactive process, the denial notice should explain the reasons for the denial of the requested accommodation. Some examples of possible reasons for denial are:

- The requested accommodation would not be effective.
- Providing the requested accommodation would result in undue hardship. Before reaching this determination, the RAC must have explored whether other effective accommodations exist that would *not* impose undue hardship and therefore can be provided.
- Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
- The requested accommodation would require the removal of an essential function.
- The requested accommodation would require the lowering of a performance or production standard.

The written notice of denial also informs the individual that s/he has the right to file an EEO, DFEH or SPB complaint and may have rights to pursue union grievance procedures. The notice also explains DGS's procedures available for informal dispute resolution.

XI. DGS Appeal Process / Requests for Reconsideration

Individuals with disabilities can request prompt reconsideration of a denial for reasonable accommodation.

- If an individual wishes reconsideration, s/he should first ask the RAC to reconsider the decision. The individual may present additional information in support of his/her request to the RARC. The Reasonable Accommodation Review Committee will respond to the request for reconsideration within **ten business days**.

Pursuing any of the informal dispute resolution procedures identified above, including seeking reconsideration from the RAC and appealing to the next person in the Reasonable Accommodation chain of command, **does not affect the time limits for initiating statutory claims**. An individual's **participation in any or all of these informal dispute resolution processes does not satisfy the requirements for bringing a claim under EEO, FEHA, SPB or union grievance procedures**.

XII. Relation of Procedures to Statutory and Collective Bargaining Claims

This policy is **in addition to** statutory and collective bargaining protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. **Requirements governing the initiation of statutory and collective bargaining claims, including time frames for filing such claims, remain unchanged.**

An individual who chooses to pursue statutory or collective bargaining remedies for denial of reasonable accommodation **must:**

- For a collective bargaining claim, file a written grievance in accordance with the provisions of the MOU; or
- Initiate an appeal to the SPB within 30 days.

If a member of the RARC staff has had any involvement in the processing of the request for reasonable accommodation, that staff member shall recuse him or herself from any involvement in the processing of an EEO counseling contact or complaint in connection with that request.

XIII. INQUIRIES

Any person wanting further information concerning these procedures may contact the Office of Risk and Insurance Management Reasonable Accommodation Coordinator at (916) 376-5424 or the DGS ADA Coordinator at (916) 376-5120.

XIV. DISTRIBUTION

These procedures shall be distributed to all employees upon issuance. They also will be posted on DGS's ORIM Intranet (<http://orim.dgs.ca.gov>) site and included in the employee handbook. Copies also will be available in the Office of Risk and Insurance Management. They shall also be distributed to all new employees as part of their orientation on their first day of work. These procedures will be provided in alternative formats upon request, including simplified format, when requested from the ADA Coordinator by, or on behalf of, any DGS employee.

APPENDIX A

Selected Reasonable Accommodation Resources

U.S. Equal Employment Opportunity Commission

1-800-669-3362 (Voice) 1-800-800-3302 (TT) or on the internet at
<http://www.eeoc.gov>.

Job Accommodation Network (JAN)

1-800-232-9675 (Voice/TT)
<http://janweb.icdi.wvu.edu/>.

ADA Disability and Business Technical Assistance Centers (DBTACs)

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

Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TT)

RESNA Technical Assistance Project

(703) 524-6686 (Voice) (703) 524-6639 (TT), or on the internet at
<http://www.resna.org/>

Forms

1. Request for Reasonable Accommodation, Form DGS RA1
 2. Transmittal Memo – RAC to RARC, Form DGS RA 2
 3. Authorization for Release of Medical Information Pursuant to Request for Reasonable Accommodation, Form DGS RA3
 4. Denial of Reasonable Accommodation Request, Form DGS RA4
 5. Reasonable Accommodation Information Reporting Form (Internal Use), DGS RA5
-

1. The RAC, as explained below, has specific responsibilities as part of the reasonable accommodation process, including processing certain requests, making determinations on the need for medical information, and preparing annual reports on DGS's reasonable accommodation process. See "Inquiries," page 26, for the phone number and e-mail address for the RAC.

2. See Section IV, [Determining Which DGS Official Will Handle the Request](#), for information on the responsibilities of the Personnel Management Specialist.

3. In certain circumstances, referring and processing a request will have to be made very quickly. For example, an applicant may need an accommodation, such as help filling out an application form immediately. See Section VIII, Time Frames for Processing Requests and Providing Reasonable Accommodations, for more information, including when a request must be expedited.

4. Currently, offices generally meet interpreter needs for employees by contracting for such services.

REQUEST FOR REASONABLE ACCOMMODATION

Parts A, B, and C must be completed by the employee personally when requesting reasonable accommodation whether or not the request requires expenditure of funds. Form DGS RA3, "Authorization for the Release of Medical Information", must be attached to the original request for reasonable accommodation. Part D is to be completed by the Supervisor/Office Chief and submitted with the employee's current duty statement with essential functions attached. *Send all documentation to:*

PART A
95798-9052
(MS,Z-01)

1. EMPLOYEE'S NAME (PLEASE TYPE OR PRINT LEGIBLY) (Miss, Mr., Mrs., Ms.)		2. SOCIAL SECURITY NUMBER: DATE OF BIRTH: ___/___/___	
MAILING ADDRESS (Street, City and Zip Code)		RESIDENCE TELEPHONE:	
3. DIVISION AND OFFICE NAME:	4. OFFICE TELEPHONE:	5. CLASSIFICATION:	

PART B 1. **IDENTIFY THE LIMITATION WHICH REQUIRES ACCOMMODATION. BE SPECIFIC: E.G., "MAY NOT LIFT OVER 25 POUNDS FOR SIX MONTHS."** (Attach an additional sheet of paper, if necessary.)

IS YOUR DISABILITY PERMANENT TEMPORARY UNKNOWN
If temporary, Anticipated Recovery Date:

2. **DESCRIBE THE TYPE OF ACCOMMODATION REQUESTED.** (Attach an additional sheet of paper, if necessary.)

IF EQUIPMENT IS REQUESTED, PLEASE SPECIFY BRAND, MODEL NUMBER AND VENDOR, IF KNOWN.

3. **SPECIFY HOW THIS ACCOMMODATION WILL ASSIST YOU TO PERFORM THE ESSENTIAL FUNCTIONS OF THE POSITION HELD OR DESIRED.** (Attach an additional sheet of paper if necessary.)

PART C **VERIFICATION BY A HEALTH PROFESSIONAL FOR YOUR REASONABLE ACCOMMODATION MUST MEET THE FOLLOWING CRITERIA:**

- Documentation must provide a diagnosis of mental or physical disability and include a medical recommendation for a specific reasonable accommodation.
- The documentation must be written on the official letterhead of the qualified health professional or health professional's organization,
- The health professional's credentials must be identified, e.g., M.D., D.O., D.C.
- The documentation must be dated and signed by the health professional.
- Describe the limitations in detail as they currently exist and only in relationship to the job, and state whether the disability is permanent or temporary. If temporary, specify the date the disability is expected to end.
- Indicate the extent to which the accommodation will permit the employee to perform the essential functions of the job.
- If equipment purchase is recommended, please be specific. If work site modification is recommended, or restructuring or sharing of specific duties, describe the recommended action. Please be specific.

8. I HAVE READ AND UNDERSTAND PART C	Date submitted by employee
Employee Signature	

NOTE: YOU ARE RESPONSIBLE FOR ANY EXPENSE INCURRED IN PROVIDING MEDICAL DOCUMENTATION TO THE DEPARTMENT. SUPERVISOR OR OFFICE CHIEF MUST COMPLETE PART D.

CONTINUED ON REVERSE

SUPERVISOR/OFFICE CHIEF

Because the law requires requests for reasonable accommodation to be responded to in writing by the Reasonable Accommodation Coordinator (RAC) no later than 20 working days from the receipt of the request, the Supervisor/Office Chief must forward this request to the RAC within five working days. Form RA1 (Req. for Reasonable Accommodation), RA3 (Auth. For Release of Medical Information), and employee's duty statement must be forwarded to the RAC within the 5-day period. The employee has the right to appeal to the California State Personnel Board within 30 days after expiration of the initial 20-day period (If no response has been received) or receipt of a written denial by the RAC.

NOTE: SUPERVISOR/OFFICE CHIEF DOES NOT HAVE THE AUTHORITY TO DENY A REQUEST FOR REASONABLE ACCOMMODATION. CONSULT THE RAC.

THIS FORM AND ALL MEDICAL INFORMATION MUST BE KEPT CONFIDENTIAL.

PART D

1. Print Name of Employee's Immediate Supervisor and that Person's Office Telephone Number:

 Print Immediate Supervisor's Name

 Office Telephone Number

PART E (REASONABLE ACCOMMODATION COORDINATOR COMPLETES PARTS E AND F)

RESOLVED:
Describe resolution:
(Office will incur any expenses)
Cost \$ _____

UNABLE TO RESOLVE:
(Explain reasons)

BSO CONTACTED: _____
 (date)

PART F

Please Print Shipping Information: _____ / _____ / _____ / _____ / _____ / _____
 Five Digit Cost Center No. Invoice No. _____ Date _____
 Delivery Date: _____

Office Name: _____

Street Address: _____ Room # _____ Floor _____

City: _____ State _____ Zip Code: _____

Print name and Title: _____ Date: _____

Signature: _____

- DISTRIBUTION:**
- ORIG. – REASONABLE ACCOMMODATION COORDINATOR
 - COPY -- ADA COORDINATOR (EEO OFFICE)
 - COPY -- CONFIDENTIAL MEDICAL FILE
 - COPY -- EMPLOYEE

REQUEST FOR REASONABLE ACCOMMODATION
(Retain for your records)

DEPT. OF GENERAL SERVICES

The Department of General Services (DGS) does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. The DGS does not discriminate on the basis of disability in its hiring or employment practices, the California Fair Employment and Housing Act, and the Americans with Disabilities Act.

Information requested on the Reasonable Accommodation Form is used by the Supervisor/Office Chief, the Reasonable Accommodation Coordinator (RAC), and the Reasonable Accommodation Review Committee (RARC) for the purpose of assessing employee requests for Reasonable Accommodation. It is extremely important for the employee to complete the form with accurate information. Failure to supply the requested information will delay processing of your request.

INSTRUCTIONS FOR COMPLETION – PLEASE TYPE OR PRINT LEGIBLY

Employee **PERSONALLY** completes Parts A-C

PART A ITEMS 1-5 Complete with appropriate employee information

PART B ITEM 1 Explain the limitation that requires accommodation. Give a specific description of the accommodation being requested

ITEM 2 If equipment is needed, if known, please specify brand and model number and a vendor

ITEM 3 Specify in detail how the accommodation requested will allow the employee to perform the essential functions of the job.

PART C ITEM 8 Employee must sign and date the form before submitting to the Supervisor/Office Chief

Employee is responsible for ensuring a health professional's documentation substantiates the limitations or restrictions by objective evidence of the need for reasonable accommodation. You are responsible for any expense incurred in providing this information to the Department. Exceptions to this requirement are those instances in which the employee's disability is obvious, such as paraplegia or blindness. The "Authorization for the Release of Medical Information" must be attached to the original request for reasonable accommodation when submitted to the Supervisor/Office Chief.

Supervisor/Office Chief completes Part D

PART D ITEM 1 Print name of employee's immediate Supervisor and office telephone number
Provide a copy of the essential functions duty statement to the employee. For assistance preparing an essential functions duty statement, contact your personnel liaison.

Reasonable Accommodation Coordinator (RAC) completes Parts E + F

The RAC receives the request and within five working days reviews for completeness – adequate information from the employee, completed Form RA1, the essential functions duty statement, and the medical release. The RAC then requests direct verification of the impairment from the employee's health-care provider. Using the four-step interactive process, RAC works closely with the RA applicant to resolve the request.

When the RAC determines that the accommodation is appropriate it will advise the Supervisor/Office Chief relative to such determination. The RAC (ORIM) will notify the employee and employee's Supervisor/Office Chief, in writing, of the RAC's decision to accommodate. If the request is denied, the RAC will notify the employee in writing of the final decision to deny. The Supervisor/Office Chief will be copied on all relevant correspondence to the requester.

If a reasonable accommodation is denied by the department or 20 working days from the date received by RAC have elapsed without a response, the requester may appeal directly to the State Personnel Board's Appeals Division. Employees denied reasonable accommodation also have the concurrent right to file complaints with the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission.

Memorandum

Date :

File No.:

To : Reasonable Accommodation Review Committee (RARC)

From : Department of General Services
ORIM – Reasonable Accommodation Program

Subject: **REASONABLE ACCOMMODATION REQUEST OF _____EMPLOYEE
NAME _____
OFFICE/DIVISION: _____
CLASSIFICATON: _____
ARU#: _____**

LEGAL AUTHORITY:

Government Code Sections 12940 and 19230(c); Section 504 of the Rehabilitation Act of 1973; Title I of the Americans with Disabilities Act (ADA); and the Injured State Workers' Assistance Program (ISWAP).

REASONABLE ACCOMMODATION REQUEST:

Ms/r. name requests...

MEDICAL CONDITION:

The medical information in this matter indicates that

Objective medical evidence: Yes____ No____

BACKGROUND

DISCUSSION:

Under the Fair Employment and Housing Act, Ms/r. (name) must show that s/he has a mental disorder, or that s/he has a physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that affects one or more body systems and limits her/his ability to participate in major life activities, or any other health impairment that requires special education or related services, to be entitled to RA.

S/he must also be able to perform all the essential duties of his/her position, with or without RA.

DOES MS/R. (NAME) HAVE A MENTAL DISORDER?

The term “mental disorder” includes, but is not limited to, all of the following:

- (1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity.
- (2) Any other mental or psychological order or condition that requires special education or related services.
- (3) Having a record or history of a mental or psychological disorder or condition described [above], which is known to the employer or other entity covered by this part.



DOES MS/R. (NAME) HAVE A PHYSIOLOGICAL DISEASE, DISORDER, CONDITION, COSMETIC DISFIGUREMENT, OR ANATOMICAL LOSS THAT AFFECTS ONE OR MORE BODY SYSTEMS?

Body systems are: “neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.”



DOES THE CONDITION LIMIT HIS/HER ABILITY TO PARTICIPATE IN MAJOR LIFE ACTIVITIES, OR REQUIRE SPECIAL EDUCATION OR RELATED SERVICES?

“Major life activities” include physical, mental, and social activities and working.



IS THE ACCOMMODATION REQUESTED REASONABLE? (Would the accommodation address the job-related difficulties presented by the employee’s disability and would it allow the employee to attain an equivalent level of achievement, opportunity and participation that a non-disabled individual in the same position would be able to achieve?)

RECOMMENDATION:



XXXXXX
Reasonable Accommodation Coordinator
Office of Risk and Insurance Management
Phone: (916) 376-5424

Form DGS RA 2 Rev 0701



AUTHORIZATION FOR THE RELEASE OF MEDICAL INFORMATION PURSUANT TO REQUEST FOR REASONABLE ACCOMMODATION

Form DGS RA3 Rev.0701

_____ Name of Licensed Physician or Practitioner	_____ Licensed Physician Phone (OPTIONAL)
_____ Name of Office, Clinic, Hospital, etc.	_____ Medical Number / /
_____ Street Address	_____ Social Security Number / /
_____ City, State, Zip	_____ Birth Date

TO: Any licensed physician, other licensed practitioner, hospital, clinic or other Medically-related facility, or United States Veterans Administration that are in the possession of medical records pertaining to:

NAME OF EMPLOYEE _____
(Please print)

I have requested that my employer, the Department of General Services, grant me reasonable accommodation due to my diagnosed physical or mental impairment of:

I authorize you to copy and transmit to the Reasonable Accommodation Coordinator of the Department of General Services all records concerning the above-referenced impairment and to answer any questions related to this condition. A copy of my request for reasonable accommodation is attached to this release.

The authorization shall be valid for a period of 180 days after the date of my signature or earlier if revoked by me in writing to the Reasonable Accommodation Coordinator.

I hereby acknowledge I have been informed of my right to receive a copy of this authorization upon request. I further acknowledge I have been informed if the medical information covered herein is not released, my request for accommodation may be denied.

Signature

Date

6. If an individual wishes to request reconsideration of this decision, s/he may:

- Ask the DGS Reasonable Accommodation Review Committee (RARC) to reconsider its denial. Additional information may be presented to support this request.

7. If an individual wishes to file an EEO complaint, or pursue union grievance procedures, s/he must take the following steps:

- For an EEO complaint, contact an EEO analyst in the Office of Equal Opportunity *within one year from the date of the original reasonable accommodation request*; or
- For a collective bargaining claim, file a written grievance in accordance with the provisions of the MOU or Collective Bargaining Agreement; or
- Initiate an appeal to the State Personnel Board *within 30 days of the date the reasonable accommodation was denied*.

Name of Deciding Official

Signature of Deciding Official

Date reasonable accommodation denied _____

REASONABLE ACCOMMODATION INFORMATION REPORTING FORM
****DGS Internal Use Only ****

Name of Individual requesting reasonable accommodation:

Office of Requesting Individual:

1. Reasonable accommodation: (check one)

- Approved
- Denied (If denied, attach copy of the written denial letter/memo - See Section X of the Reasonable Accommodation Procedures.)

2. Date reasonable accommodation requested:

Who received request: _____

3. Date reasonable accommodation request referred to RARC:

Name of decision maker: _____

4. Date reasonable accommodation approved or denied: _____

5. Date reasonable accommodation provided (if different from date approved):

6. If time frames outlined in the Reasonable Accommodation Procedures were not met, please explain why.

7. Job held or desired by individual requesting reasonable accommodation (including occupational series, grade level, and office):

8. Reasonable accommodation needed for: (check one)

- Application Process
- Performing Job Functions or Accessing the Work Environment
- Accessing a Benefit or Privilege of Employment (e.g., attending a training program or social event)

9. Type(s) of reasonable accommodation requested (e.g., adaptive equipment, staff assistant, removal of architectural barrier):

10. Type(s) of reasonable accommodation provided (if different from what was requested):

11. **Was medical information required to process this request? If yes, explain why.**

12. **Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (e.g., Job Accommodation Network, disability organization, Disability Program Manager):**

13. **Comments:**

Submitted by: _____ **Phone:** _____

Attach copies of all documents obtained or developed in processing this request