

Standard Operating Procedures

1 PURPOSE

The purpose of Personal Assistance Services (PAS) is to minimize barriers within the employment process for persons with targeted disabilities and at the discretion of the Agency those persons with disabilities as well. Recognizing that the absence of PAS as an employment support can be a significant barrier to employment within the Federal workforce, the Equal Employment Opportunity Commission (EEOC) determined that updated regulations “were needed to enhance the employment, retention, and promotion of qualified individuals with disabilities....” On January 3, 2017, the EEOC issued updated regulations for Section 501 of the Rehabilitation Act of 1973. Section 501 prohibits federal agencies from discriminating against job applicants and employees based on disability and requires agencies to engage in affirmative action for individuals with disabilities. One of the provisions of the updated Section 501 regulations requires federal agencies to provide PAS to certain employees with disabilities. The following questions and answers discuss this requirement along with general information about PAS in both the public and private sectors.

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, but not limited to, assistance with removing and putting on clothing, eating, and using the restroom. Such services do not include medical care. This definition is from the Section 501 regulations.

According to the EEOC, PAS is not the same as services that help employees perform job-related tasks, such as sign language interpreters for employees who are deaf or readers for employees who are blind or have learning disabilities. These services are already required as reasonable accommodations under the part of Section 501 that requires reasonable accommodations.

Effective January 3, 2018, the Section 501 regulations of the Rehabilitation Act require federal agencies to provide Personal Assistance Services on the job as part of their affirmative action requirements.

Agencies are required to provide an employee with, in addition to job-related services required as a reasonable accommodation, personal assistance services during work hours and job-related travel if: The employee requires such services because of a targeted disability; provision of such services would, together with any reasonable accommodations provided according to these procedures, enable the employee to perform the essential functions of his or her position; and provision of such services would not impose undue hardship on the agency.

Personal assistance services must be performed by a personal assistance service provider. Agencies may require personal assistance service providers to provide personal assistance services to more than one individual. Agencies may require personal assistance service providers to perform tasks unrelated to personal assistance services, but only to the extent that doing so does not result in their failure to provide personal assistance services in a timely manner.

Agencies, when selecting someone who will provide personal assistance services to a single individual, are required to give primary consideration to the individual's preferences to the extent permitted by law.

Though personal assistance services are not technically reasonable accommodations, the process for requesting personal assistance services, the process for determining whether such services are required, and the agency's right to deny such requests when provision of the services would pose an undue hardship, are the same as the processes for reasonable accommodations outlined in these procedures.

2 DEFINITIONS

a Disability - With respect to an individual, means

- (1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; or,
- (2) a record of such an impairment, or;
- (3) being regarded as having such an impairment.

(a) An example of “a record of such an impairment” includes having a history of, or having been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(b) An example of “being regarded as having such an impairment” includes having an impairment that does not substantially limit a major life activity but is treated by USDA as constituting such limitation; having an impairment that substantially limits a major life activity only as a result of the attitudes of others toward such impairment; or, having none of the impairments

described in this section, but being treated by USDA as having a substantially limiting impairment.

In regard to Reasonable Accommodation, **ONLY** those employees or applicants who meet part (1) or (2) of the above definition for “Disability” shall be considered eligible for a reasonable accommodation. Reasonable accommodation is not considered for those individuals who “have a record of” or are “regarded as” having an impairment. Individuals with a relationship or association with a person with a disability are not entitled to receive reasonable accommodation. However, the protections provided by other aspects of the Rehabilitation Act of 1973 provide other protections for individuals who meet these other definitions.

- b Essential Functions - are the fundamental job duties of the employment position the individual with a disability holds or desires. The reasons a function may be essential may include, but not be limited to:
 - (1) the reason the position exists is to perform that function;
 - (2) the limited number of other employees who could perform that function; and/or
 - (3) the function may be highly specialized so that the incumbent in the position is hired for his/her expertise or ability to perform the particular function.Determination of the essential functions of a position must be conducted 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.
- c Major Life Activities - are functions such as, but not limited to: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, sitting, standing, reaching, interacting with others, concentrating, lifting, sleeping, reproduction, running and working.
- d Mental Impairment - any psychological or mental disorder, e.g. mental retardation, organic brain syndrome, emotional or mental illness or specific learning disability.
- e Physical Impairment - any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin or endocrine.
- f Qualified Individual with a Disability - an individual with a disability who satisfies the requisite skill, experience, education, and other job related requirements of the employment position such individual holds or desires, and, who, with or without reasonable accommodation, can perform the essential functions of such position.
- g Reasonable Accommodation - a change in the work environment or the application process that would enable a qualified individual with a disability to enjoy equal

employment opportunities. There are three general categories of reasonable accommodations:

- (1) changes to a job application process to ensure that applicants with disabilities will have an equal opportunity to participate in the application process and to be considered for jobs;
- (2) changes to enable an employee with a disability to perform the essential functions of the job or to gain access to the workplace; and
- (3) changes to provide people with disabilities equal access to the benefits and privileges of employment.

- h Substantially Limits - means unable to perform a major life activity that the average person in the general population can perform; or significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.
- i USDA TARGET Center - the USDA's resource center that provides on-site workplace assessments and demonstrations of assistive technology and ergonomic solutions to ensure appropriate implementation of reasonable accommodations for USDA's workforce.
- j Undue Hardship - a specific accommodation requiring significant difficulty or expense. This determination is made on a case-by-case basis and considers the nature, cost of the accommodation, the financial resources of USDA as a whole, and/or impact of the accommodation on the operations of the particular office or facility involved.
- K 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, but not limited to, assistance with removing and putting on clothing, eating, and using the restroom. Such services do not include medical care.

3 ROLES/RESPONSIBILITIES

The following are the key stakeholders and responsibilities aligned with the specific stakeholder within the Reasonable Accommodation Program:

a. Employee Responsibility

Employees shall:

- Submit completed AD-1163 to the immediate supervisor, DEPM, or Field Disability Coordinator according to paragraph 52 of the 31-PM.

- Note: A written request for accommodation is not required; however, completing AD-1163 will expedite the review of the accommodation request. If the employee does not complete AD-1163, DEPM, or the Field Disability Coordinator shall review the information requested on AD-1163 with the employee and complete the form.
- Provide medical documentation requested in a timely manner
- Participate in reviewing and discussing accommodation options with DEPM, Mission Area Designee, Field Disability Coordinator, management, and employee representative according to subparagraph D (31-PM).
- Implement and use the accommodation provided
- Comply with the terms of the accommodation plan.

b. Immediate Supervisor Responsibilities

The immediate supervisor shall:

- Submit completed AD-1163 to DEPM, or the Field Disability Coordinator according to paragraph 52 of 31-PM
- Note: If an employee makes a verbal request for accommodation, the supervisor May refer the employee to AD-1163 and this handbook, if the employee chooses not to complete AD-1163, the supervisor shall complete AD-1163 and forward it to DEPM, or Field Disability Coordinator IAW 7-26-04 31-PM Amend. 3 Page 3-3 Par. 51.
- Confer with DEPM, or Field Disability Coordinator before completing AD-1163
- Participate in reviewing and discussing accommodation options with the employee, FFAS DEPM or Field Disability Coordinator, and the employee representative.
- Comply with the terms of the accommodation plan
- The immediate supervisor does not have the authority to grant a request for Reasonable accommodation unless:
 - Cost is less than \$2,500
 - The supervisor and employee are in agreement as to the accommodation
 - The accommodation does not impact on the conditions of employment for any other employee in the work group.
 - Example: Change in work schedule.

c. Disability Employment Program Manager

The Disability Employment Program Manager shall:

- Develop policies and procedures for reviewing and implementing reasonable Accommodation

- Evaluate and approve or deny accommodation requests from offices serviced by HRD Develop, in collaboration with the employee, employee representative, and management, an accommodation plan to implement accommodations for employees of offices serviced by HRD
- Provide technical assistance to the Field Disability Coordinators for accommodation requests, as needed
- Work closely with other coordinators for FFAS to promote compliance with the provisions of this handbook, related regulations and technical guidance to foster an environment of nondiscrimination in the employment of persons with disabilities
- Serve as the first appeal level for accommodation decisions from Field Offices
- Maintain data on accommodations requested, provided, and the cost of each accommodation for annual reporting purposes.

d. Field Disability Coordinator Responsibilities

The State Office Administrative Officer as Field Disability Coordinator Responsibilities shall:

- Promote compliance with the provisions of this handbook and related regulations and technical guidance to foster an environment of nondiscrimination in the area of employment of persons with disabilities
- Consult with the DEPM, as needed
- Evaluate and approve or deny accommodation requests for State and County Office employees in their State
- Develop, in collaboration with the employee, employee representative, and management, an accommodation plan to implement accommodations for State and County Office employees
- Maintain data on accommodations requested, provided, and costs of each accommodation for annual reporting purposes.

e. Civil Rights Staff Responsibilities

The Civil Rights Staff shall:

- Monitor and evaluate policies and procedures to ensure compliance with applicable laws and regulations
- Work cooperatively with DEPM, and Field Disability Coordinators to ensure consistent and effective development and application of policies and procedures.

f. Mission Area Designee

The Mission Area Designee shall:

- Be required to successfully complete training by the Department
- Ensure that the mission area is in compliance with its obligations to provide Reasonable accommodation to qualified employees
- Make a determination, when necessary, if the individual requesting accommodation is an individual with a disability as defined in this handbook (31-PM) Maintain, review, and interpret all documentation, medical and nonmedical, to make a Determination.
- Consult with the USDA Medical Officer when making a determination based on Medical documentation, if necessary report their decision to appropriate officials.

g. Decision Makers

The Decision Makers shall:

- Make decisions regarding various aspects of the reasonable accommodation process. There are four possible decision makers
 - Personnel Office – Requests for accommodation from applicants with disabilities will be handled by the Personnel Office responsible for the recruitment process for a particular announcement of a vacant position (excluding the interview)
 - Interviewing Official – Requests for accommodation from applicants with disabilities for the interview process will be handled by the interviewing official.
 - First Line Supervisor – Requests for accommodation from employees with disabilities will be handled by the employee’s first line supervisor.
 - Mission Area Designee – Request for determination as to whether or not an applicant or employee requesting an accommodation has a covered disability will be handled by the Mission Area Designee.

h. Bargaining Units Responsibilities

Where exclusive representation exists, the exclusive representative shall:

- Make may represent a bargaining unit employee seeking the accommodation only if requested by the employee.
- may represent a bargaining unit employee who feels another employee’s accommodation has impacted a condition of employment specific to them only if

requested by the effected employee.

- may not represent a non-bargaining unit member as defined by the contract
- must comply with the privacy/confidentiality provisions of the Rehabilitation Act of 1973, as amended.
- Employees requesting representation, and stewards, must complete FFAS-4 before DEPM, or the Field Disability Coordinator can discuss the medical condition of the employee with the steward.

4. REQUESTING PERSONAL ASSISTANCE SERVICES (PAS) - (EMPLOYEE)

STEP	ACTION	
1	Request made orally or in writing to her/his	THEN
	Immediate or first line supervisor, division head, or any agency official proposing to take a performance or conduct action	GO TO STEP 2
	Disability Employment Program Manager (DEPM) or Field Disability Coordinator	GO TO STEP 3
	Note: If the employee does not complete AD-1163, DEPM, or Field Disability Coordinator shall complete AD-1163 with the employee’s assistance.	
2	The supervisor shall complete AD-1163 within 3 workdays of receiving the request for accommodation and forward the completed forms to FFAS DEPM, or Field Disability Coordinator. The FFAS DEPM, or Field Disability Coordinator shall request AD-1163 from the immediate supervisor, if not submitted.	
3	Upon receiving AD-1163 or notification of the request for accommodation, within 3 workdays, DEPM, or Field Disability Coordinator (if applicable) shall forward the request to the *Mission Area Designee within 2 workdays. The Mission Area Designee shall request: <ul style="list-style-type: none"> • medical documentation, if necessary • AD-1163 from the immediate supervisor, if not submitted. 	
4	The employee has 15 workdays from the date of the request for medical documentation to submit the necessary documentation to the *Mission Area Designee or the DEPM. Employee may request a reasonable time extension.	
5	Within 15 workdays after sufficient medical documentation is received, DEPM, Or Field Disability Coordinator shall meet with the employee, management, and employee representative to discuss whether accommodation is appropriate, and, if so, to discuss options. 7-26-04 31-PM Amend. 3 Page 3-10 Par. 53	

6	IF the parties...	THEN...	
	Do not reach a consensus on the requested accommodation	<ul style="list-style-type: none"> • DEPM, or Field Disability Coordinator shall issue an accommodation determination memorandum within 5 workdays. • The employee may file an appeal according to paragraph 54 (31-PM). 	
	Reach a consensus on the requested accommodation	DEPM, or Field Disability Coordinator shall issue a decision memorandum and/or accommodation plan within 5 workdays.	
7	The employee shall review and sign or make changes to the accommodation plan within 7 workdays .		
	IF changes are	THEN the employee shall...	
	not requested	sign and forward the accommodation plan to management for signature.	
	Requested	Forward the accommodation plan to DEPM or Field Disability Coordinator. Return to step 6.	
8	Management shall review and sign or make changes to the accommodation plan within 7 workdays .		
	IF changes are..		
	not requested	Management shall sign and forward the accommodation plan to FFAS DEPM and Field Disability Coordinator.	
	Requested	Management shall forward the accommodation plan to DEPM, and the Field Disability Coordinator, Return to step 6.	
9	After the accommodation plan has been signed, all parties have an obligation to comply with its terms and conditions.		
	Note: The accommodation plan may be modified as changes in the medical condition or the essential job functions necessitate.		

4A. REQUESTING PERSONAL ASSISTANCE (APPLICANT)

STEP	ACTION		
1	Request made orally or in writing to		THEN
	The Personnel Office, Staffing Specialist, point of contact for the vacancy announcement		GO TO STEP 2
	The Selecting Official/Interview Official		GO TO STEP 3
2	<p>The Personnel Office, Staffing Specialist, point of contact for the vacancy shall ask what accommodation is needed.</p> <ul style="list-style-type: none"> • Note: The accommodation for completing the vacancy is the responsibility of the Personnel Office, Staffing Specialist, point of contact for the vacancy. • If the accommodation request is unclear or pose an undue hardship, the point of contact shall consult with the DEPM or Mission Designee 		
3	<p>The Selecting Official/Interview Official shall ask “is an accommodation needed for the interview,” and what type of accommodation is needed?</p> <ul style="list-style-type: none"> • Note: The accommodation for the interview is the responsibility of the Selecting Official/Interview Official. • If the accommodation request is unclear or pose an undue hardship, the point of contact shall consult with the DEPM or Mission Designee 		
4	The employee has 15 workdays from the date of the request for medical documentation to submit the necessary documentation to the *Mission Area Designee or the DEPM. Employee may request a reasonable time extension.		
5	<p>Within 15 workdays after sufficient medical documentation is received, DEPM, Or Field Disability Coordinator shall meet with the employee, management, and employee representative to discuss whether accommodation is appropriate, and, if so, to discuss options.</p> <p>7-26-04 31-PM Amend. 3 Page 3-10 Par. 53</p>		
6	IF the parties...	THEN...	
	Do not reach a consensus on the requested accommodation	<ul style="list-style-type: none"> • DEPM, or Field Disability Coordinator shall issue an accommodation determination memorandum within 5 workdays. 	

		<ul style="list-style-type: none"> The employee may file an appeal according to paragraph 54 (31-PM). 	
	Reach a consensus on the requested accommodation	DEPM, or Field Disability Coordinator shall issue a decision memorandum and/or accommodation plan within 5 workdays.	
7	The employee shall review and sign or make changes to the accommodation plan within 7 workdays .		
	IF changes are	THEN the employee shall...	
	not requested	sign and forward the accommodation plan to management for signature.	
	Requested	Forward the accommodation plan to DEPM or Field Disability Coordinator. Return to step 6.	
8	Management shall review and sign or make changes to the accommodation plan within 7 workdays .		
	IF changes are..		
	not requested	Management shall sign and forward the accommodation plan to FFAS DEPM and Field Disability Coordinator.	
	Requested	Management shall forward the accommodation plan to DEPM, and the Field Disability Coordinator, Return to step 6.	
9	After the accommodation plan has been signed, all parties have an obligation to comply with its terms and conditions.		
	Note: The accommodation plan may be modified as changes in the medical condition or the essential job functions necessitate.		

4B. REQUESTING PERSONAL ASSISTANCE (FAMILY MEMBER/HEALTH PROFESSIONAL/SUPERVISOR/REPRESENTATIVE)

STEP	ACTION	
1	Request made orally or in writing to her/his	THEN
	The Personnel Office, Staffing Specialist, or point of contact for the vacancy.	GO TO STEP 2
	The Selecting Official or Interview Official	GO TO STEP 3
	Immediate or first line supervisor, division head, or any agency official proposing to take a performance or conduct action	GO TO STEP 4
	Disability Employment Program Manager (DEPM) or Field Disability Coordinator	GO TO STEP 5
	Note: If the employee does not complete AD-1163, DEPM, or Field Disability Coordinator shall complete AD-1163 with the employee's assistance.	
2	<p>The Personnel Office, Staffing Specialist, point of contact for the vacancy shall ask what accommodation is needed.</p> <ul style="list-style-type: none"> • Note: The accommodation for completing the vacancy is the responsibility of the Personnel Office, Staffing Specialist, point of contact for the vacancy. • If the accommodation request is unclear or pose an undue hardship, the point of contact shall consult with the DEPM or Mission Designee 	
3	<p>The Selecting Official/Interview Official shall ask "is an accommodation needed for the interview," and what type of accommodation is needed?</p> <ul style="list-style-type: none"> • Note: The accommodation for the interview is the responsibility of the Selecting Official/Interview Official. • If the accommodation request is unclear or pose an undue hardship, the point of contact shall consult with the DEPM or Mission Designee 	
4	The supervisor shall complete AD-1163 within 3 workdays of receiving the request for accommodation and forward the completed forms to FFAS DEPM, or Field Disability Coordinator. The FFAS DEPM, or Field Disability Coordinator shall request AD-1163 from the immediate supervisor, if not submitted.	
5	Upon receiving AD-1163 or notification of the request for accommodation, within	

	3 workdays, DEPM, or Field Disability Coordinator (if applicable) shall forward the request to the *Mission Area Designee within 2 workdays. The Mission Area Designee shall request:		
	<ul style="list-style-type: none"> • medical documentation, if necessary • AD-1163 from the immediate supervisor, if not submitted. 		
6	The employee has 15 workdays from the date of the request for medical documentation to submit the necessary documentation to the *Mission Area Designee or the DEPM. Employee may request a reasonable time extension.		
7	Within 15 workdays after sufficient medical documentation is received, DEPM, Or Field Disability Coordinator shall meet with the employee, management, and employee representative to discuss whether accommodation is appropriate, and, if so, to discuss options. 7-26-04 31-PM Amend. 3 Page 3-10 Par. 53		
8	IF the parties...	THEN...	
	Do not reach a consensus on the requested accommodation	<ul style="list-style-type: none"> • DEPM, or Field Disability Coordinator shall issue an accommodation determination memorandum within 5 workdays. • The employee may file an appeal according to paragraph 54 (31-PM). 	
	Reach a consensus on the requested accommodation	DEPM, or Field Disability Coordinator shall issue a decision memorandum and/or accommodation plan within 5 workdays.	
9	The employee shall review and sign or make changes to the accommodation plan within 7 workdays .		
	IF changes are	THEN the employee shall...	
	not requested	sign and forward the accommodation plan to management for signature.	
Requested	Forward the accommodation plan to DEPM or Field Disability Coordinator. Return to step 6.		
10	Management shall review and sign or make changes to the accommodation plan within 7 workdays .		
	IF changes are..		
	not requested	Management shall sign and forward the accommodation plan	

		to FFAS DEPM and Field Disability Coordinator.
	Requested	Management shall forward the accommodation plan to DEPM, and the Field Disability Coordinator, Return to step 6.
11	<p>After the accommodation plan has been signed, all parties have an obligation to comply with its terms and conditions.</p> <p>Note: The accommodation plan may be modified as changes in the medical condition or the essential job functions necessitate.</p>	

5. APPEAL PROCESS

If either the employee or manager is dissatisfied with the disability determination or accommodation proposed, the Agency may seek an independent medical or other expert review on the points of disagreement. However, an employer cannot ask for documentation when both the disability and the need for accommodation are obvious or the individual has already provided the employer with sufficient information to substantiate the disability and the need for reasonable accommodation. If independent medical or expert review is permissible, then the final determination will incorporate the information provided by the independent medical or other expert. If necessary, based on the independent medical or other expert review, adjustments will be made to the disability determination or accommodation proposed. However, if either the employee or manager remain dissatisfied, the final determination may be appealed according to this table.

If the appeal is filed by an employee or manager in	THEN
a Field Office	<ul style="list-style-type: none"> • first appeal is to FFAS DEPM • second appeal is to Director, HRD • third appeal is to USDA Disability Compliance Manager.
The National Office	<ul style="list-style-type: none"> • first appeal is to Director, HRD • second appeal is to USDA Disability Compliance Manager.

Note: If the employee wants to file:

- an EEO complaint, the employee should contact an EEO counselor for guidance
- a bargaining unit grievance, the employee should refer to the negotiated contract for the employee's union.