



- Subject:** Western Area Power Administration procedures to address requests for accommodations due to medical conditions, and to facilitate the provision of reasonable accommodation pursuant to Executive Order 13164.
- Purpose:** These procedures implement Executive Order 13164, which requires Federal agencies to establish effective written procedures for processing requests for reasonable accommodation. These procedures also apply to an employee's or applicant's request for an accommodation, which is related to a physical or mental condition that may warrant the accommodation as a preventative or corrective measure.
- Effective Date:** Effective upon signature.
- Expiration Date:** Until rescinded or superseded.
- Originator:** Office of Economic Impact and Diversity
- Instructions:** Provide a copy to all current Federal employees and new Federal employees as part of their orientation package. When an applicant's request for accommodation to the application process is denied, the reason will be stated in writing and the applicant will be given the right to request reconsideration. These procedures can also be found at <http://www.cso.wapa.gov/ocoo/A7200/Guidance/default.htm>.

Date: _____

Richard Gallegos
Manager, Office of Economic Impact
and Diversity

U.S. Department of Energy



**Reasonable Accommodation
Procedures Manual**

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U.S. Department of Energy



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SUBJECT: REASONABLE ACCOMMODATION

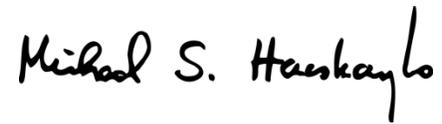
1. OBJECTIVES. To provide detailed instructions on how the Western Area Power Administration (Western) will implement and process requests for reasonable accommodation and requests for accommodation which are related to a physical or mental condition that may warrant the accommodation as a preventative or corrective measure. This Manual supplements Executive Order 13164 and the Department of Energy (DOE) Order 311.1B, Equal Employment and Diversity Program, dated 02-12-03.
2. APPLICABILITY. The provisions of this Manual apply to all Western employees and applicants for employment when an employee or applicant requests an accommodation related to a physical or mental condition that may warrant a preventive or corrective measure.
3. EXCEPTION. This Manual does not apply nor is it intended to provide guidance to Western Contractor and Sub-contractor organizations.
4. SUMMARY. This Manual is composed of eight sections that provide instruction and identify roles and responsibilities on implementing and processing requests for accommodations.
5. REFERENCES.
 - a. The Americans with Disabilities Act of 1990, 42 U.S.C. 12101, *et seq.*, as amended.
 - b. The Rehabilitation Act of 1973, 29 U.S.C. 791, *et seq.*, as amended.
 - c. Executive Order 13164.
 - d. DOE Order 311.1B, Equal Employment and Diversity Program, dated 2-12-03.

DISTRIBUTION:
Available Online: <http://www.cso.wapa.gov/cao/1600/DIRECT>

INITIATED BY:
Office of Economic
Impact and Diversity

Vertical line denotes change

6. CONTACT. Questions concerning this Manual should be directed to Western's Office of Economic Impact and Diversity at 720-962-7034.

A handwritten signature in black ink that reads "Michael S. Hacskaylo". The signature is written in a cursive style with a large, prominent 'M' and 'H'.

Michael S. Hacskaylo
Administrator

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1.0 INTRODUCTION

Pursuant to Executive Order 13164, Western Area Power Administration (Western) is charged with establishing written procedures for the facilitation of reasonable accommodation for qualified individuals with disabilities under the Rehabilitation Act of 1973, 29 U.S.C. 791, *et seq.*, as amended (Rehabilitation Act). These procedures are also in accordance with the Equal Employment Opportunity Commission's enforcement guidance on reasonable accommodation under the Americans with Disabilities Act of 1990 (ADA). Reasonable accommodation involves the removal of workplace barriers which may be physical obstacles such as inaccessible facilities, provisions of adaptive equipment, or rules and procedures governing when, where, and how work is performed to enable an individual with a disability to experience equal employment opportunities. A qualified individual with a disability is an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or is applying for.

The Rehabilitation Act requires Federal agencies to provide reasonable accommodation to a qualified employee or applicant with a disability so that he/she can become a productive member of the workforce. The Rehabilitation Act requires agencies to look for new and innovative ways to alter, restructure, or change the ways of doing a job in order to allow a Federal employee who is a qualified individual with a disability to perform the essential functions of the particular job held by the employee or one which he/she is qualified to perform.

While the Rehabilitation Act covers employees in the Federal workplace, Title I of the ADA expands disability accommodation issues to include all civilians. As such, the ADA's nondiscrimination standards apply to Federal employees. See, www.eeoc.gov.

This Manual governs three categories of reasonable accommodations:

- a. modifications or adjustments to a job application process to permit an individual with a disability to be considered for employment;
- b. modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job; and
- c. modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment.

This Manual sets forth procedures for the implementation of the foregoing for : (1) qualified individuals with disabilities requiring accommodation in

the application process for employment with Western; (2) Western employees who are qualified individuals with disabilities requiring accommodations to perform the essential functions of a position; and (3) Western employees who are qualified individuals with disabilities requiring accommodations to enjoy the benefits and privileges of employment equal to those enjoyed by employees without disabilities.

As a model employer, Western is extending the application of these procedures beyond the mandates of Executive Order 13164, the Rehabilitation Act, and the ADA, to include employees and applicants requesting an accommodation for a physical or mental condition which should be addressed as a preventative or corrective measure.

2.0 DEFINITIONS

2.1 Reasonable Accommodation.

Reasonable accommodation is a change in the work environment or in the application process that enables an individual with a disability to experience equal employment opportunities. According to the Equal Employment Opportunity Commission (EEOC), the term “reasonable” has no independent definition. To be reasonable, the accommodation must be effective.

Any request for accommodation that would require the exemption of requisite skill, experience, education, and other job-related requirements of the position, or create a job where none exists, reallocate or eliminate essential job functions, or otherwise substantially change the fundamental nature of a job, will be deemed unreasonable by Western and such a request will be denied.

2.2 Qualified Individual.

A qualified individual is an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or is applying for.

2.3 Disability.

In order for an individual to be entitled to a reasonable accommodation, he/she must have a disability pursuant to the ADA definition. An individual has a disability for purposes of the ADA and the procedures contained in this Manual if he/she: (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such impairment; or (3) is regarded as having such an impairment. However, if the individual has little or no difficulty performing any major life activity because she or he uses a mitigating measure, then that person may not meet the definition of disability.

2.4 Impairment.

An impairment is a physiological disorder affecting one or more of a number of body systems or a mental disorder.

An impairment is substantially limiting if it prohibits or significantly restricts an individual’s ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity. Not all medical conditions are “substantially limiting”. Generally, a broken bone, sprained joint, concussion, appendicitis, and

influenza are not “substantially limiting” because these conditions will heal within a reasonable time. Similarly, a normal pregnancy is not “substantially limiting” for purposes of the ADA and the present procedures, and therefore does not constitute a disability. Reference and coordination with WAPA Order 340.1, Employee Occupational Medical Program, WAPA Order 3300.1, Light Duty Assignments, and information on the Workers’ Compensation Programs for Federal Employees may be necessary.

Generally, a major life activity is something of fundamental significance to all people, and not simply an activity important to a particular individual. It does not include activities such as sports or recreation.

Examples of major life activities include: caring for oneself, performing manual tasks, walking, hearing, seeing, sitting, speaking, breathing, learning, working, standing, lifting, and thinking.

2.5 Mitigating measures.

Mitigating measures are compensations used by an individual to lessen, eliminate, or partially or fully control the limitations or symptoms caused by an impairment. Mitigating measures may include the use of devices such as prostheses, hearing aids, or glasses.

2.6 Benefits and privileges of employment.

Benefits and privileges of employment include, but are not limited to, Western sponsored: (1) training; (2) services such as employee assistance programs (EAPs), credit unions, cafeterias, lounges, gymnasiums, auditoriums, or transportation; and (3) parties or social functions.

2.7 Undue hardship.

Undue hardship means significant difficulty or expense. It addresses the limitations on the requirement that Western provide a reasonable accommodation in a specific circumstance. It encompasses accommodations that are financially burdensome on Western as a whole, and is not limited to components’ organizational budgets; accommodations that are unduly extensive or disruptive, or that fundamentally alter the nature or operation of the business.

2.8 Reasonable documentation.

In cases where an individual’s disability is not obvious, Western officials may require only the documentation that is needed to establish that a

person has a qualified disability, and that the disability necessitates a reasonable accommodation. Accordingly, in most situations, a person's complete medical record may not be requested. Appropriate healthcare or rehabilitation professionals such as doctors, psychiatrists, psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals, may provide documentation about the disability and the functional limitations it imposes.

2.9 Essential functions of employment.

The essential functions of a job are those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function may be essential if, among other things, the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on his or her ability to perform it.

3.0 RIGHTS AND RESPONSIBILITIES

3.1 Rights Under the Rehabilitation Act of 1973.

The Rehabilitation Act confers upon individuals a number of rights and responsibilities. Employees and applicants for employment have the following rights:

- a. to have requests for reasonable accommodation handled in a prompt, fair, and efficient manner.
- b. to be given substantial leeway in the manner requests for reasonable accommodation are made.
- c. to have medical records and information kept confidential in accordance with applicable law and regulations.
- d. to file equal employment opportunity complaints.
- e. to be provided with a written explanation for any denial of reasonable accommodation.

3.2 Responsibilities under the Rehabilitation Act of 1973.

Employees and applicants have the following responsibilities:

- a. to make known to relevant persons their need for reasonable accommodation.
- b. to provide sufficient medical documentation to support a request for reasonable accommodation, where one's disability is not obvious, and the agency has requested documentation.

3.3 Rights and Responsibilities for Employees and Applicants Not Covered by the Rehabilitation Act of 1973.

Employees and applicants for employment who are not qualified individuals with a disability are not entitled to the rights and responsibilities under the Rehabilitation Act of 1973. However as a model employer, Western will apply the rights and responsibilities set forth in Sections 3.1 and 3.2 to employees and applicants requesting accommodation based on a physical or mental condition which may warrant the accommodation as a preventative or corrective measure.

4.0 PROCEDURES FOR REQUESTING AN ACCOMMODATION

4.1 Initiating the Accommodation Process

- 4.1.1 Employee initiating a request for an accommodation.** A Western employee or his/her representative must inform the employee's supervisor or manager in the employee's immediate chain of command, Western's disability coordinator (who is Western's safety and security manager), or the Regional/Corporate Services Office (CSO) safety manager that an adjustment or change at work is needed to accommodate a disability or a physical or mental condition that may warrant the accommodation as a preventive or corrective measure. This request may be made in writing or orally. Any mode of communication may be used, such as e-mail, a conversation, a memorandum, or a letter. The official receiving the request must document the date and content of the request, and provide a copy to the requestor.
- 4.1.2 Applicant initiating a request for an accommodation.** An applicant for employment with Western may also request an accommodation in writing, orally, or by any other mode of communication, and may do so with the human resources specialist or management official that the applicant has had contact with in connection with the employment application process. The management official or the human resources specialist must document the date and content of the request.
- 4.1.3 Others initiating a request for an accommodation.** A family member, friend, health professional, or other representative may request a reasonable accommodation on behalf of an individual with a disability or an accommodation for an individual with a physical or mental condition that may warrant an accommodation as a preventative or corrective measure. An example of such a request occurs when a family member telephones an employee's supervisor to inform him or her that the employee with the disability had a medical emergency necessitating hospitalization and time off from work. A supervisor should verify with the employee, at the earliest possible date, the employee's desire for an accommodation. Employees should consult with the Human Resources office for guidance on the applicable procedures governing time and attendance.
- 4.1.4 Availability.** Reasonable accommodations are available to all applicants or Western employees with a disability, whether they are/will be full-time, part-time or probationary. As a model employer, Western will provide appropriate accommodations for applicants and employees based on a physical or mental condition that may warrant an accommodation as a preventative or corrective measure.

4.1.5 When request is made. An applicant or employee may request an accommodation at any time during the application process or during the period of employment.

4.1.6 Particular language not required. An individual is not required to use the phrase “reasonable accommodation” when making a request, nor is there a requirement to reference the Rehabilitation Act. The individual need not make a request, per se, but may simply indicate difficulty or inability to perform the essential functions of his/her job or difficulty in completing the application process due to a physical or mental disorder.

4.2 Processing Requests for an Accommodation

4.2.1 Referral to authorized official. A request for an accommodation whether received orally or in writing by supervisors, human resources personnel, etc., must be transmitted in writing to the local administrative officer¹ **within seven (7) calendar** days from receipt of the request or within seven (7) calendar days from when the accommodation request was made known. The administrative officer must approve or deny the request in writing within **30 calendar days** from the date an employee/applicant makes his or her request for reasonable accommodation. If the request was made during an application process, the transmittal of the request and decision shall be expedited.

4.2.2 Informal interactive process. If the administrative officer determines that more information is needed to make a decision on the appropriate accommodation, the administrative officer shall engage in the interactive process to clarify and determine the employee’s needs and appropriate remedy. In the case of an applicant for employment, the informal process will be conducted by the human resources specialist or management official that the applicant has had contact with in connection with the employment application process. An employee may be asked relevant questions pertaining to the disability and the type of accommodation needed. An applicant may only be asked questions relevant to the accommodation as it applies to the application process.

When the disability and the type of accommodation required is obvious, lengthy discussion is not required. In other cases, questions concerning the nature of the disability and the individual’s functional limitations may need to be asked in order to identify an effective accommodation. The employee/applicant may, but is not required to, specify the precise accommodation desired. The employee/applicant is required to describe the problems he or she is experiencing as a result of workplace or application process barriers. Furthermore, the employee’s assessment of the effectiveness of an accommodation must be given due deference.

¹ The responsible official for CSO will be Western’s Human Resources Manager.

The interactive process may require that the administrative officer and employee/applicant consult and work with a number of people, including but not limited to medical and safety personnel and the local facility manager. Where the employee or the administrative officer are unfamiliar with the possible accommodations, they should make inquiries including but not limited to the Regional/CSO Safety office, or Western's disability coordinator for assistance and/or referral to public and private resources.

4.2.3 Request for sufficient documentation. The employee/applicant may be required to provide appropriate medical information related to the disability and requested accommodation at issue where the disability and/or the need for accommodation and/or the reasonableness of the accommodation request is not obvious and the employee/applicant has made known his or her request for accommodation. See, Section 4.4, Medical Information.

The ADA prohibits employers from making disability related inquiries and requests for medical examinations prior to offering employment to the applicant. If an applicant has been given a conditional job offer, where applicable, Western may make inquiries regarding the fitness to perform the essential functions of the job, as long as it does so for all entering employees in the same job category. After employment begins, disability related inquiries may be made only if they are job related and consistent with business necessity.

Where medical information is needed and requested, employees are required to provide documentation about the disability and the functional limitations from an appropriate health care or rehabilitation professional. Appropriate professionals include, but are not limited to, doctors, psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists and licensed mental health professionals.

The employee may be asked to sign a limited release allowing Western to submit a list of specific questions to the health care professional.

If an individual's disability or need for accommodation is not obvious, and he or she refuses to provide the requested documentation, then the individual's request for an accommodation may be denied.

4.2.4 Authority. The administrative officer is authorized to evaluate and approve or deny an employee's request for an accommodation and/or approve or deny requests made by applicants for employment. The administrative officer's authority shall include, but is not limited to approval or authorization for:

- a. rehabilitation adaptive equipment;
- b. specially designed furniture;
- c. communication equipment;
- d. information technology;
- e. material in alternative formats, such as braille and large print;
- f. reassignment to another position; and
- g. temporary reader, personal assistant, or sign language interpreter services.

In certain instances, the administrative officer may need to consult with the General Services Administration, the Office of the Chief Financial Officer, the Office of the Chief Information Officer, and/or the landlords of leased facilities, in order to facilitate the accommodation.

4.3 Time Limitations

4.3.1 30 calendar days. Absent extenuating circumstances, an accommodation must be provided or the request must be denied by the administrative officer on or before the 30th calendar day from the date the request is made.

Western policy requires that requests be processed in a manner that imposes the fewest possible burdens on individuals requesting accommodation, and in the most expeditious manner possible.

When a request for a simple accommodation is made, it should be processed immediately. An example is a request by an individual with a diabetic disability to take medication or inject insulin.

4.3.2 Exceptions to the 30-calendar day time limit.

- a. **Expedited processing.** Expedited processing may be required in certain circumstances, such as when an accommodation is needed to enable a person to apply for employment with Western or when an

agency activity is scheduled to occur within a short time such as an internal Western sponsored training event.

- b. **Extenuating circumstances.** Extenuating circumstances are factors that could not have been reasonably anticipated or avoided in advance of the request for the accommodation. A delay in forwarding medical documentation by a health professional to the employee's supervisor is an example of an extenuating circumstance, as is a delay in the shipment of specially ordered equipment needed to grant an accommodation.

4.3.3 Notification. The administrative officer must notify in writing, the individual seeking accommodation, of any reason for delay in the consideration of the accommodation or in the provision of the accommodation, and must consider taking temporary measures to assist the person needing accommodation, if possible. When possible, the administrative officer should advise the individual when the accommodation request can reasonably be expected to be processed.

4.3.4 Time may not be extended. The time to process an oral request for accommodation may not be extended beyond the 30 calendar day time limit merely because a written request by the employee has not been received.

4.4 Medical Information

When an employee/applicant requests an accommodation he/she must provide Western with appropriate medical information that relates to his or her impairment where the disability or the employee's need for accommodation is not visible or otherwise obvious, and has been requested by Western. Appropriate medical information should include the following information. However, whether all or part of the following should be requested will be determined on a case-by-case basis:

- a. the history of the medical condition, including references to findings from previous examinations, treatment, and responses to treatment;
- b. clinical findings from the most recent medical evaluation, including any of the following which have been obtained: findings of physical examination; results of laboratory tests; X-rays; EKG's and other special evaluations or diagnostic procedures; and, in the case of psychiatric evaluations or psychological assessments, the findings of a mental status examination and the results of psychological tests, if appropriate;
- c. diagnosis, including the current clinical status;

- d. prognosis, including plans for future treatment and an estimate of the expected date of full or partial recovery;
- e. an explanation of the impact of the medical condition on overall health and activities, including the basis for any conclusion that restrictions or accommodations are or are not warranted, and where they are warranted, an explanation of their therapeutic value;
- f. an explanation of the medical basis for any conclusion which indicates the likelihood that the individual is or is not expected to suffer sudden or subtle incapacitation by carrying out, with or without accommodation, the tasks or duties of a specific position; and
- g. narrative explanation of the medical basis for any conclusion that the medical condition has or has not become static or well stabilized and the likelihood that the individual may experience sudden or subtle incapacitation as a result of the medical condition.

Western may **not** request medical information when the disability or need for accommodation is obvious. Examples of disabilities that may not be obvious are: mental illness, mental retardation, learning disabilities, epilepsy, cancer, arthritis, and asthma.

Western may request additional medical information from the employee if the information submitted by the employee does not clearly explain the nature of the disability or the need for accommodation, or if needed to clarify how the requested accommodation will assist the employee in the performance of the essential functions of the job and/or to enjoy the benefits and privileges of the workplace. Likewise, Western may only request medical information relevant to a request for accommodation which would enable an individual with a disability to apply for employment. Only medical records related to the disability and the need for accommodation may be requested by Western, therefore, Western may not be entitled to access the employee's or applicant's entire medical record.

If the employee has already provided Western with sufficient information to document the existence of the disability and his or her functional limitations, Western may not request that same or additional medical information.

4.4.1 Requests for medical information. If the administrative officer determines that medical information is required to process a request for an accommodation, the administrative officer will coordinate the request for medical documentation/information with the requestor and other

individuals such as the requestor's supervisor, the local safety manager and/or Western's disability coordinator as appropriate. Request for medical information will be done in accordance with Section 4.4, Medical Information.

The failure to provide appropriate medical information or documentation, or to cooperate in Western's efforts to obtain such documentation, can result in a denial of an accommodation.

In addition to the required documentation, the employee/applicant can be required to provide, in the form of a statement, information regarding his or her disability and the need for an accommodation. The administrative officer may also pose questions to the employee/applicant that are intended to elicit information about the disability. However, questions regarding matters unrelated to the disability at issue are not permissible.

Where Western is entitled to request medical information under the standards set forth above, Western is entitled to have that information reviewed by its own medical expert at its own expense.

4.4.2 Documentation will be deemed insufficient if:

- a. it does not adequately specify the existence of a disability and sufficiently explain the need for an accommodation; or
- b. the health care professional does not have the expertise to give an opinion about the individual's medical condition and the limitations imposed by it; or
- c. the information does not specify the functional limitations due to the disability; or
- d. factors indicate that the information provided is not credible or is fraudulent.

4.4.3 Examination by Western health care professional. If the individual requesting an accommodation provides insufficient documentation from the treating physician or other health care professional to substantiate his/her need for accommodation, the administrative officer may require the individual with his or her written consent to be seen by an appropriate health care professional of Western's choice. The administrative officer must first explain why the documentation is insufficient and allow the individual to provide the missing information in a timely manner. In lieu of an examination by a Western health care professional, the administrative officer with the individual's written consent may consult with the individual's physician or health care professional.

If the individual is required to see a health care professional of Western's choosing, then Western shall pay all costs associated with the visit for the requested accommodation.

Any medical examination conducted by Western's health care professional must be job-related and consistent with the business necessity. Therefore, the examination must be limited to determining the existence of a qualified disability or the physical or mental condition addressed in a signed written consent, where applicable, based on the issues presented in the request for reasonable accommodation or the signed written consent and the functional limitations that require reasonable accommodation.

The failure to submit to such an appropriate medical examination can result in the denial of an accommodation.

4.4.4 Confidentiality. Medical information obtained in connection with the accommodation process must be kept confidential, regardless of the origin of that information.

4.4.5 Maintaining separate files. All medical information received by Western as part of an accommodation request by an employee must be maintained in a file separate and apart from the individual's Official Personnel File (OPF) and Medical File (MF). Medical information obtained from applicants will be maintained in a file separate and apart from the delegated/merit promotion recruitment file.

4.5 Record Keeping

The employee relations specialist will maintain custody of all records created or obtained during the processing of an accommodation request, including medical records. The employee relations specialist will be responsible for responding to requests from Western officials that have a need to know in the course of performing official duties for information

involving disclosure of these records. The contents of the file containing all records pertaining to an accommodation request shall be disclosed only to the extent necessary in the following circumstances:

- a. supervisors and managers needing information about necessary restrictions on the work or duties of the employee and about the necessary accommodations;
- b. emergency responders and safety personnel needing information related to a disability;
- c. Government officials requesting information necessary to investigate the agency's compliance with the Rehabilitation Act;
- d. economic impact and diversity (EID) managers requesting information necessary for maintaining records and evaluations of Western's performance regarding accommodation requests;
- e. in limited circumstances, Workers Compensation offices or insurance carriers requesting medical information. See 29 C.F.R. §§ 1630.14 (b), 1630.16 (f); and
- f. Western's Office of General Counsel requesting information for official purposes.

If medical information is disclosed in any circumstances, the Western official or employee relations specialist providing the information must inform the persons receiving the information of the requirement of confidentiality, in writing.

5.0 GRANTING ACCOMMODATION REQUESTS

Western may provide any form of accommodation which is effective. Alternative suggestions for accommodation should be discussed with the employee/applicant; however, Western is not required to provide the specific accommodation requested by the individual with a disability. While due consideration should be given to the preference of the disabled individual, Western may select a less expensive or less burdensome accommodation, and is not required to demonstrate that it is an undue hardship to provide the specific accommodation requested by the individual.

If an accommodation that differs from the requested accommodation is selected, then the decision maker shall advise the employee/applicant why the selected accommodation is effective.

Once the request for an accommodation has been processed, the employee/applicant shall be immediately notified of the decision to grant or deny the request for accommodation. The decision to grant or deny the accommodation for an employee will be made by the administrative officer. In the case of applicants for employment, the decision to grant or deny the request for accommodation will also be made by the administrative officer or his/her designee responsible for the recruitment or selection process. The decision to grant the accommodation will be transmitted in writing to the employee/applicant. A copy of the written notification should be retained by the custodian of the files. If the notification is sent by e-mail, a copy of the "properties" listing the dates sent and received must be attached to a copy of the e-mail.

Prior to notifying the employee or applicant, the administrative officer will notify Western's disability coordinator by e-mail of the decision to grant the accommodation request for his/her concurrence.

If Western's disability coordinator determines that further coordination is required among the Regions/CSO/Colorado River Storage Project Management Center, the Office of General Counsel, and the Office of Economic Impact and Diversity, the disability coordinator will be responsible for this coordination, including any medical records or documentation related to the request.

6.0 DENIAL OF ACCOMMODATION REQUESTS

If Western denies an employee's/applicant's request for an accommodation, the administrative officer will notify Western's disability coordinator by e-mail of a decision to deny an accommodation request. The disability coordinator must determine if the denial is of a reasonable accommodation for a qualified individual with a disability under the Rehabilitation Act. The disability coordinator will coordinate the decision denying any accommodation, including any medical records or documents, for concurrence with the Office of General Counsel and the Office of Economic Impact and Diversity. The employee/applicant must be notified in writing of the denial of any accommodation and the reasons for the denial within the time limits prescribed in Section 4.3.1 of these procedures.

6.1 Content of notification.

The written notification of denial for accommodation for a Western employee must include copies of the documentation considered by the administrative officer in reaching the decision and advise the employee of:

- a. the name of the administrative officer;
- b. his/her right to initiate the EEO complaint process by contacting an EEO counselor within **45 calendar days** from the date of receipt of the written notice of denial;
- c. the availability of informal dispute resolution and how to request this process; and
- d. his/her right to file a grievance with the collective bargaining unit if the employee is covered by a bargaining unit and to do so in accordance with the provisions of the collective bargaining agreement; or the administrative grievance process if the employee is not covered by a bargaining unit.

The written notification of denial for accommodation for an applicant must include copies of the documentation considered by the administrative officer in reaching the decision and advise the applicant of:

- a. his/her right to initiate the EEO complaint process by contacting an EEO counselor within **45 calendar days** from the date of receipt of the written notice of denial; and
- b. any available rights to an employee where the applicant is a Federal employee.

6.2 Request for reconsideration.

If denied a request for accommodation, an individual may, within **seven (7) calendar days** of notification of the denial, request reconsideration of the decision. The request for reconsideration must be in writing, and must be directed to Western's disability coordinator. The request should include any additional information or supporting documentation not originally provided.

A request for reconsideration does not affect the EEO complaint or grievance processing time limits, or the procedural time limits imposed by informal dispute resolution processes.

6.3 Time to respond.

Western's disability coordinator presented with a request for reconsideration of a denial of an accommodation shall consider the request and respond, in writing, within **seven (7) calendar days** of the request for reconsideration. The time limit may be extended in extenuating circumstances.

7.0 OTHER CONSIDERATIONS WHERE THE PERSON IS A QUALIFIED INDIVIDUAL WITH A DISABILITY UNDER THE REHABILITATION ACT OF 1973

7.1 Reassignment

7.1.1 Criteria. Reassignment will be considered as a form of reasonable accommodation only if Western determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of his/her current position. Reassignment must be provided to an employee, absent undue hardship, if the employee can no longer perform the essential functions of the position he/she holds with or without the accommodation. The following conditions must exist in order to provide reassignment as a reasonable accommodation:

- a. the individual must be an employee of Western;
- b. the employee can no longer perform the essential functions of his/her job because of a disability;
- c. no other effective accommodation would enable the employee to perform the essential functions of his/her current job; or, all other possible accommodations would impose an undue hardship;
- d. the reassignment may be made only to a funded position which is vacant or is expected to become vacant within sixty (60) calendar days;
- e. the full performance level of the reassigned position may not be higher than the full performance level of the position currently held;
- f. the employee being accommodated must be qualified for the new position. The employee is considered qualified for the new position if he/she possesses the requisite skill, experience, education and other job-related requirements of the position, and can perform the essential functions of the position with or without reasonable accommodation; and
- g. the employee does not require additional training, education or experience in order to assume the duties of the new position.

Western is not required to create or fund a position, nor is it required to reassign an individual from an existing position in order to create a vacancy for the employee being accommodated. If all the conditions are met for reassignment, the employee will not be required to compete for the position. If, however, the full performance level of the reassigned position

is higher than the full performance level of the position currently held by the employee, then the employee must compete for the position.

With the employee's consent, reassignment may be made to a location outside of his or her commuting area. However, relocation costs may not be paid by Western.

7.1.2 Referral to authorized official. When reassignment is sought as a reasonable accommodation, the matter shall be referred to the losing office. That office will:

- a. seek input from the employee in order to search and identify vacant positions within Western for which the employee may be qualified, with or without reasonable accommodation;
- b. identify positions likely to be vacant within sixty (60) calendar days for which the employee may be qualified; and,
- c. consider vacant, lower-level positions for which the individual may be qualified, if unable to identify vacant positions equivalent in grade, position, pay, and status of the employee's current position.

7.2 Undue Hardship

The law does not require Western to provide any and every accommodation an applicant or employee requests. Western is only required to provide those accommodations that would allow the employee to perform the essential functions of the job or provide modifications to the job application process to permit an individual with a disability to be considered for employment, and which would not impose an undue hardship on Western. However, if a decision denying a reasonable accommodation is based on a claim of undue hardship, Western must demonstrate that the accommodation would cause significant difficulty or expense.

7.2.1 Cost. Accommodations that are unduly costly and require expenditure of significant sums of money or resources may be considered an undue hardship. Factors establishing hardship based on cost are:

- a. the nature and cost of the accommodation;
- b. the overall financial resources of Western; and
- c. the effect on expenses and resources.

7.2.2 Operation. Accommodations that would change the fundamental nature of the operation or unduly disrupt the operation of Western are generally not required. Factors to be considered include:

- a. undue disruption to the ability of other employees to do their jobs; and
- b. significant disruption likely to occur to the operation of the office.

If Western determines that the requested accommodation will cause undue hardship, but that another reasonable accommodation will be effective and will not cause undue hardship, then Western must provide the other reasonable accommodation.

7.3 Informal Dispute Resolution

Western encourages individuals who have been denied requests for reasonable accommodation to avail themselves of Western's alternative dispute resolution (ADR) process (including mediation). Participation in the ADR process is strictly voluntary. For information concerning Western's ADR Program or to request ADR, employees may contact the servicing human resources office.

7.4 Other Complaint Processes

An individual who has been denied a reasonable accommodation may choose to file an Equal Employment Opportunity (EEO) complaint of discrimination alleging a violation of Section 501 of the Rehabilitation Act. To initiate the EEO complaint process, the employee/applicant must contact a Western EEO Counselor within forty-five (45) calendar days of the date of the discriminatory act (denial of the request for accommodation), or within forty-five (45) calendar days of when the individual became aware or should have become aware of the alleged discriminatory act. If an EEO Counselor is contacted, the employee/applicant will engage in EEO counseling and/or the mediation process or other alternative dispute resolution processes where appropriate. If the issue is not resolved at the informal resolution stage, Western will provide the complainant with a Notice of Final Interview and Right to File a Formal EEO Complaint of Discrimination. Formal complaint procedures may be found at 29 C.F.R. Section 1614.106 or refer to the Department of Energy's handbook, [Information on Complaints of Discrimination: A Handbook for Employees and Applicants](#). This handbook is available in Western's respective human resources office or on line at <http://www.cso.wapa.gov/eo/comphb.pdf>.

8.0 INFORMATION TRACKING FOR ALL REQUESTS FOR ACCOMMODATIONS

8.1 Information Tracking

Western shall maintain a system for tracking the processing of requests for accommodation. The employee relations specialist shall have primary responsibility for maintaining this database. The tracking system will be used to evaluate Western's method of processing and timeliness of responding to requests for accommodation.

8.2 Types of Information.

The database shall track the following information:

- a. the number and types of accommodations that have been requested, and whether the requests have been granted or denied;
- b. where the accommodation was denied, whether the denial was a denial of a reasonable accommodation for a qualified individual with a disability under the Rehabilitation Act of 1973;
- c. the occupational series, grade level, and organizational code of those persons requesting accommodation;
- d. for each of the occupational series, the types of accommodation requested;
- e. by organizational code and job category, the number and types of accommodation requested;
- f. by organizational code and job category, the number and types of accommodation that have been granted or denied;
- g. the number and types of accommodation that related to the benefits and privileges of employment, and whether those requests have been granted or denied;
- h. the reasons for denial of requests for accommodation;
- i. the amount of time taken to process each request for accommodation; and
- j. the sources of technical assistance or organizations that have been consulted when identifying possible accommodations.

8.3 Duration of Record Keeping.

The employee relations specialist shall maintain tracking information on accommodation requests for a period of not less than three (3) years.

8.4 Individual Records.

Records of individuals requesting accommodation shall be maintained for the duration of the person's employment with the Department of Energy. Records shall include any documentation of the individual's disability and need for accommodation, as well as information regarding the disposition of the request. These records are to be kept separate from the employee's OPF and MF. Records of applicants not selected will be maintained for the specified delegated examining/merit promotion retention period.

8.5 Oversight by the Equal Employment Opportunity Commission.

The Equal Employment Opportunity Commission has the right to review all relevant records, including records of individual employees requesting reasonable accommodation, in order to evaluate the efficacy of Western's reasonable accommodation procedures.

9.0 APPENDIX - ACCOMMODATION RESOURCES

Western's Disability Program Coordinator

Kevin Jensen

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Email: KJensen@wapa.gov

Western's Employee Relations Specialist

Wayne R. Davison

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Fax: 720-962-7161

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Western's Office of Economic Impact and Diversity

Charles Marquez (for filing EEO complaints)

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Vertical line denotes change

U.S. Department of Energy



PAGE CHANGE

WAPA M 311.1

DATE: 04-28-05

Change 1: 04-16-13

SUBJECT: REASONABLE ACCOMODATION

1. PURPOSE. To transmit revised Section 9, Appendix – Accommodation Resources, Page 24, dated 04-28-05.

BACKGROUND. Page Change initiated to reflect updated contact information in Section 9, page 24.

2. LOCATION OF CHANGES.

Section 9, page 24.

After filing the attached page, this transmittal may be discarded.