



FEMA

Fact Sheet

Guide for Managers/Supervisors on FEMA's Reasonable Accommodation Process

This fact sheet is provided as a quick reference guide for managers and supervisors regarding the provision of reasonable accommodations. This document **does not** replace FEMA's reasonable accommodation policy (see Resources at end of this document), nor does it address all questions or situations. For specific information not covered herein, please consult the reasonable accommodation policy or contact the Office of Equal Rights (OER) Disability Division – FEMA-Reasonable-Accommodation@fema.dhs.gov.

Introduction

The Rehabilitation Act of 1973, as amended, protects qualified employees and applicants for employment with disabilities from employment discrimination based on a disability, in the federal government. The law makes it illegal to discriminate against a qualified person with a disability, and the law makes it illegal to retaliate against a person because the person requests an accommodation. The law also requires that FEMA provide a reasonable accommodation for the *known* physical or mental limitations of an otherwise qualified individual with a disability, unless doing so causes an undue hardship.

What is a Reasonable Accommodation?

A reasonable accommodation is a change or modification to the work environment or the way things are customarily done, including a change or modification to a particular office policy and/or procedures, which would enable a qualified individual with a disability to apply for a position, perform the *essential functions* of a position, and/or, enjoy the benefits and privileges of employment equal to those enjoyed by employees without disabilities. Reasonable accommodations do not allow an employee to be excused from the *essential functions* of their position. Typical reasonable accommodations include leave, a schedule adjustment, an interpreter, etc. Importantly, sometimes an accommodation might be a change to your style or practices as a manager/supervisor.

Who is a person with a disability?

A person with a disability is an individual who has a [physical or mental impairment that substantially limits one or more major life activities](#); a record of such an impairment; or is regarded as having such an impairment. Only individuals with a physical or mental impairment are entitled to a reasonable accommodation; individuals who have a record of an impairment that is no longer limiting them in a major life activity are not entitled to an accommodation.

A detailed explanation of the above definition can be found by following the link to a fact sheet produced by the U.S. Equal Employment Opportunity Commission (EEOC). Additionally, OER has an informative [webinar](#) for managers/supervisors, on this topic.

Briefly, major life activities include but are not limited to breathing, walking, learning, seeing, and hearing. An impairment is considered substantially limiting if it significantly restricts – or prevents altogether – an individual's ability to perform the activity as compared with the average person.

A *qualified* individual with a disability is defined as one who: (1) satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) can perform the essential functions of the position, with or without reasonable accommodation.

How does an employee or applicant for employment request a reasonable accommodation?

An employee may request a reasonable accommodation orally or in writing from his/her supervisor of record (SOR), by contacting OER, or by initiating the process through the DHS [Accessibility Compliance Reporting System \(ACMS\)](#). The request should be documented on [FEMA Form 256-0-1](#), Request for Reasonable Accommodation. Though not required to use any specific words or format for the request, the requestor is responsible for notifying his/her SOR of the need for an accommodation, providing sufficient information to establish that they are an individual with a disability, and describing the limitations they encounter that require accommodating. An applicant for employment may request a reasonable accommodation orally or in writing from any FEMA employee with whom she/he has contact, in connection with the application process. The FEMA employee with whom the applicant makes their request should notify the Disability Program Manager (DPM) in OER as soon as they become aware of the request. An applicant for employment may also request reasonable accommodation directly from the DPM.

How do I recognize a request as one for a reasonable accommodation(s)?

Reasonable accommodation requests take many forms. There is no one required method. Supervisors must be mindful that an applicant or employee may indicate a need for adjustment or change in an application process or express a need for a modification at work for a reason related to a medical condition, as a means to initiating the process. Requests do not have to be in writing, and do not have to include the terms "reasonable accommodation," "Rehabilitation Act", or "disability." Ex. "I need a new chair, as this one is exacerbating my back condition," is enough to trigger further discussion.

How do I respond to a request for a Reasonable Accommodation (RA)?

Listen, ask relevant questions, review the RA policy and consult with OER. Importantly, do not automatically refuse an accommodation request.

- **Review each request individually.** There is no one-size-fits-all accommodation. Accommodations may differ based on the employee's medical condition, medical treatment and job duties.
- **Discuss the request** with the employee or applicant for employment.
- **Ask for additional information if needed** to help you determine if the individual is a qualified individual with a disability, and if so, what type(s) of accommodations might be effective for both the individual and FEMA. For example, if an employee who is partially blind requests special computer software, you may want to discuss what types of software would meet his/her needs.
- **Consider alternative accommodations.** If it is not possible to provide the requested accommodation, determine whether other accommodations would be effective.
- **Consider additional requests.** Remember that medical conditions can change. An employee may need an additional accommodation or a different accommodation at some point in the future, due to changes in job responsibilities, medical condition or medical treatment.
- **Reassignment as a last resort.** Reassignment is a “last resort” accommodation that must be considered if there are no effective accommodations that would enable an employee to perform the essential functions of his/her current job, or if all other possible accommodations would impose undue hardship on FEMA. Reassignment is available only to employees; it is not available to applicants. In addition, reassignment may be made only to a vacant, funded position. In considering whether there are positions available for reassignment, the Office of the Chief Component Human Capital Officer (OCCHCO) and the individual requesting the accommodation will work together to identify: (1) vacant positions within the agency for which the employee may be qualified, with or without reasonable accommodation; and (2) positions which OCCHCO has reason to believe will become vacant over the next 60 business 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, FEMA 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, FEMA will not pay for the employee's relocation costs. In the event that a vacant position is not available, FEMA will expand its search for vacancies at other DHS components.

How is a decision reached regarding a request for a reasonable accommodation?

FEMA is required to initiate an interactive discussion with individuals who request an accommodation. It is through this discussion that the SOR learns about the employee's limitations and types of accommodations which would be the most effective to enable the employee to perform the essential functions of his/her job. The SOR may consult with OER, if assistance is needed. The final decision rests with the SOR; **however, a SOR may not issue a denial without the concurrence of OER.** Once decided, the SOR must meet with the employee to discuss the decision and provide them the decision in writing. Once issued, a copy of the decision must be forwarded to OER.

What is an undue hardship?

FEMA has a legal duty to provide an effective accommodation, unless doing so will result in an undue hardship to the agency. An undue hardship may include significant difficulty or expense, changing fundamental job duties, lowering production or performance standards or tolerating misconduct. Most accommodations, however, are not expensive; in fact, some are free! Please note that proof one accommodation poses an undue hardship does not absolve FEMA from considering alternatives.

When should medical documentation be provided?

If the disability and/or limitations are not obvious, managers/supervisors should request medical information to substantiate that the individual has a disability and clarify the limitations that require accommodating. Medical documentation will be considered **sufficient** if it meets the following criteria:

- Describes the nature, severity, and duration of the individual's impairment,
- The activity or activities that the impairment limits,
- The extent to which the impairment limits the individual's ability to perform said activity or activities; and,
- Substantiates why the requested reasonable accommodation is needed.

Medical documentation about the individual's disability and functional limitations must come from a qualified health care or rehabilitation professional. Depending on the disability and the type of functional limitation it imposes, qualified professionals could be doctors, psychiatrists,

psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, or licensed mental health professionals. Importantly, managers/supervisors are not entitled to an employee's entire medical history. Inquiries should be limited to information that explains the limitation and need for accommodation. If unsure, consult OER for guidance.

Additionally, please note that some employees are not comfortable sharing information about their physical or mental impairment with their first-line supervisor. It is permissible for an employee to instead submit the requested medical information directly with OER. OER will then work with the SOR to make the appropriate decision.

How do I protect the confidentiality of an employee with a disability?

Under the Rehabilitation Act, a person's medical condition, functional limitations, and information about the fact that an accommodation has been requested or provided must be kept confidential. Therefore, information regarding an employee's reasonable accommodation should only be shared with those persons having a need to know. This generally includes a first and/or second line supervisor and OER. It does not include fellow employees, even if they may be asked to assume some non-essential functions as part of accommodating another employee.

Additionally, under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential, in files separate from the individual's personnel file. Medical documents provided by an employee should be sent to OER and should be password protected. Managers should not keep copies of medical records. Please email medical documentation to FEMA-Reasonable-Accommodation@fema.dhs.gov.

OER may share certain information with an employee's supervisor or other agency official(s) as necessary to make appropriate determinations on a reasonable accommodation request. Under these circumstances, OER will inform the recipients about these confidentiality requirements. The information disclosed will be no more than is necessary to process the request.

Are all employees entitled to a reasonable accommodation?

No. Only qualified individuals with a disability are entitled to an accommodation.

Does the agency have to provide the accommodation requested?

No. FEMA does not have to provide the specific accommodation requested. Employees are not entitled to the accommodation of their choice. Employees are entitled to an effective accommodation. If more than one accommodation is effective, the employer may choose which one to provide.

What are the applicable processing timeframes?

Generally, managers/supervisors have 15 business days to process a reasonable accommodation request. The time required to process a request for accommodation can vary because of factors such as the need to clarify requests, obtain the necessary supporting documentation, and the availability of all parties involved. FEMA processes all reasonable accommodation request as expeditiously as possible. If you need assistance processing a request, please contact OER.

Importantly, unjustified delay in responding to or processing a request has been determined to be a violation of the Rehab Act. As such, managers/supervisors need to act with all deliberate haste.

When is a decision reached?

Upon evaluating all recommendations, considering available resources, and engaging in the interactive process with the requestor, the SOR will make a final determination of approval or denial on the request. **In the event of a denial, the Office of Equal Rights must be consulted prior to issuance.** The decision maker is required to discuss the decision with the employee, and document their decision in writing. Once issued, a copy of the decision must be forwarded to OER.

What is the appeal process?

An employee or applicant for employment who has requested reasonable accommodation may request prompt reconsideration of a denial of reasonable accommodation.

- If an employee is denied his/her request for reasonable accommodation, he/she may appeal directly to his/her second level supervisor. The employee may present additional information in support of his/her request. The second level supervisor will respond to this request within ten (10) business days of receipt of the request.
- If an applicant for employment is denied his/her request for reasonable accommodation, he/she may appeal directly to the Director, OER. The applicant may present additional information in support of his/her request. The Director will respond to this request within ten (10) business days of receipt of the request.
- In an effort to resolve disputes arising out of a request for reasonable accommodation, employees or applicants for employment can also request to participate in the OER Alternative Dispute Resolution process.

What is the role of the Office of Equal Rights in the reasonable accommodation process?

OER's role is to assist managers with the timely processing of reasonable accommodation requests, consistent with all relevant statutes, regulations, EEOC guidance, case law, and the FEMA Reasonable Accommodation Policy. In that regard OER provides neutral, authoritative guidance to managers/supervisors and employees on the RA process. When applicable, OER may forward a request for reasonable accommodation to Federal Occupational Health (FOH) to obtain a medical review of the employee's request for an accommodation. OER is a neutral party in the RA process and FOH is a medical reviewing authority. Neither OER nor FOH approves or denies RA requests, except in cases of a final appeal.

In OER, a Reasonable Accommodation Specialist may conduct an analysis of whether an employee is an individual with a disability. Ultimately, the manager makes the decision.

FEMA components may designate a qualified management official to facilitate the reasonable accommodation process. The designation of such a facilitator does not replace OER's role in the reasonable accommodation process or preclude employees from communicating with OER directly on reasonable accommodation matters.

For guidance and/or assistance with any reasonable accommodation inquiry, please contact OER at FEMA-reasonable-accommodation@fema.dhs.gov.

Resources:

- [FEMA Reasonable Accommodation Policy](#)
- [FEMA Form 256-0-1 Request for Reasonable Accommodation Form](#)
- [Job Accommodation Network \(JAN\)](#) – provides general guidance on the Rehabilitation Act and A-Z disabilities and accommodations.
- [Office of Equal Rights Reasonable Accommodation intranet site](#)
- [EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act](#)
- [The Rehabilitation Act of 1973](#)

DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY
TELEWORK APPLICATION AND AGREEMENT

1. Check one of the following: ☐ New Agreement ☐ Change in Existing Agreement

2. Employee Name

3. Organization

4. Position Title

5. Series and Grade

6. Office Telephone No.

7. Supervisor (Name/Title)

8. Type of Telework: ☐ Regular (Core) ☐ Situational (Episodic)

Part I - Completion of this agreement indicates that:

1. The employee's telework arrangement begins on _____
(date)

2. The employee's official tour of duty and location are listed below.

DAY	Telework Days (Week 1)	Start and End Times		Telework Days (Week 2)	Start and End Times	
Monday						
Tuesday						
Wednesday						
Thursday						
Friday						

3. Employee volunteers to participate in the program and to adhere to the applicable guidelines and policies. Agency concurs with employee participation and agrees to the applicable guidelines and policies.

4. Employee understands that FEMA may require participating employee to work from their telework site, e.g., home, satellite office, or other location, during periods of Unscheduled Telework authorization due to area closures, dismissals, unforeseen emergencies or other reasons as authorized by the Supervisor.

5. Management reserves the right to alter the employee's established telework schedule to accommodate peak workload office demands or for any other official purpose with advance notifications.

6. Employee's official tour of duty must include at least a 30-minute uncompensated lunch.

7. Employee's official duty station is: _____ (City and State) for purposes such as pay, travel,

etc. The location at which the employee is designated to work (i.e., alternate work location) while not at the official duty station is: _____

The phone number of the alternate worksite is _____

8. Employee understands requirements for an adequate and safe office space and that these requirements must be met.

9. An employee approved for telework is required to satisfactorily complete all assigned work, consistent with the approach adopted for all other employees in the work group.

10. The employee will regularly meet/speak with the supervisor to receive assignments and to review completed work as necessary or appropriate. The employee's job performance will be evaluated on criteria and milestones determined by the supervisor with input from employee.

11. Employee's Time and Attendance (WebTA) for all official duty time spent in a Teleworking status will be recorded using the proper Telework code. The supervisor and employee are responsible for ensuring the accuracy of time and attendance reported for the employee's work at the official duty station and the alternative workplace. The supervisor agrees to certify biweekly the employee's Time and Attendance Daily Report for hours worked. The employee's timekeeper will retain a copy of the employee's work schedule.

12. Employee agrees to participate in surveys and data calls relative to the FEMA Telework Program, as requested.

13. The employee must obtain supervisory approval before taking leave in accordance with established office procedures in accordance with FEMA's Absence and Leave policies. Use of sick leave, annual leave, or other leave credits during regularly scheduled telework time must be approved in advance by the supervisor. Overtime must be approved in advance by the supervisor.

14. Employee will utilize Government equipment for official business only and in accordance with applicable laws, regulations, policies, etc., as well as safeguard said equipment. Employee is responsible for servicing and maintaining employee-owned equipment.

15. The employee agrees to permit access to their home by agency representatives when necessary to ensure proper maintenance of agency-owned equipment. Teleworkers should be given at least one day's advance notice of any such visit. Visits should only be done during regular working hours.

16. Employee is covered under the Federal Employees Compensation Act in the course of performing official duties at the alternate work location or official duty station. Any accident or injury which occurs at the alternate work location must be brought immediately to the attention of the supervisor.

17. Employee's most recent performance rating must be at least equivalent to "proficient" or "achieved expectations".

18. Employee understands that telework is not a substitute for dependent care (child care or elder care) and that appropriate arrangements must be made to accommodate children and adults who cannot care for themselves, while performing official duties in a telework site.

19. The employee understands that the Government will not be responsible for any operating costs that are associated with the use of employee's home as an alternative workplace, for example home maintenance, insurance or utilities.

20. Employee will apply approved safeguards to protect Government records from unauthorized disclosure or damage and will comply with the provisions set forth in the Privacy Act of 1974, Public Act of 1974, Public Law 93-579, codified at Title 5, U.S.C., Section 55a.

21. The employee agrees to abide by the Department of Homeland Security and FEMA Standards of Ethical Conduct Standards while working on official duty.

22. Telework agreements will be reviewed and discussed between the employee and supervisor on an annual basis.

23. Management may terminate participation in this arrangement at any time.

24. The employee may withdraw from the program at any time. The supervisor and employee understand that either party may terminate the Telework agreement with reasonable advance notice, generally fourteen calendar days, but not less than seven calendar days and require the employee to resume working at his/her official duty station. Reasons for termination will be documented by the supervisor and/or employee and filed with this agreement.

Compliance with this Agreement

The employee's failure to comply with the terms of this agreement may result in the termination of this agreement and the telework arrangement. Failure to comply with the provisions of this agreement may also result in appropriate disciplinary or adverse action against the employee.

Part - II Certification

By signing this agreement, the employee certifies that (s)he has read the terms of this agreement and agrees to follow the policies and procedures outlined in them as well as all other applicable regulations, policies, and procedures.

Max Meindl

Employee's Signature

Title

Date

Supervisor's Signature

Title

Date

Telework Coordinator's Signature

Date Reviewed

Part III - Approval/Disapproval

Your request to participate in the telework program is: ☐ Approved as written ☐ Approved with the following modification(s)

☐ Disapproved for the following reason(s):

☐ The employee does not have sufficient duties or work activities suitable for performance at an alternate work site.

☐ The employee's absence from the work place under a telework arrangement will unacceptably impact the operation of the work unit.

☐ The extent of supervision required for the employee could not be achieved in conjunction with a telework arrangement.

☐ The employee's alternative work site does not meet prescribed acceptability standards. (State the specific deficiency issue(s), such as: safety, two-way communications, access to required materials, IT security, or non-work related distractions and/or obligations.)

☐ The employee does not meet performance eligibility requirements. (State the specific deficiency issue(s) such as: writing, problem-solving, reliability for the following prescribed policies and procedures, organization/time management skills, or work quality/quantity.

☐ The employee does not meet conduct-related eligibility requirements. (State the specific deficiency issues(s), such as: leave abuse, excessive absence, or a record of misconduct which precludes participation at this time. If no additional misconduct in one (1) year, employee may reapply.

☐ Other (please specify):

Supervisor's Signature _____ Title _____ Date _____

Telework Program Coordinators Signature _____ Date _____



FEMA

December 23, 2024

Via email to: brent@bwsmithlaw.com & max.meindl@fema.dhs.gov

FOR: Attorney Brent Smith
16516 El Camino Real #406
Houston, TX 77062

Re: Complaint of Max J. Meindl v. Alejandro N. Mayorkas
Secretary, U.S. Department of Homeland Security
Case No. **HS-FEMA-02430-2024**

Dear Mr. Smith,

The Federal Emergency Management Agency (FEMA) of the U.S. Department of Homeland Security(DHS) has received your formal complaint of employment discrimination dated December 20, 2024, that was received in FEMA OCR on December 20, 2024, via email. FEMA has numbered the formal complaint, **HS-FEMA-02430-2024**. In all future correspondence concerning this formal complaint, please refer to this case number.

Pursuant to Title 29 of the Code of Federal Regulations (C.F.R.) § 1614.106(e), the following information is provided:

1. FEMA's Office of Civil Rights (OCR) is reviewing the formal complaint of discrimination to determine whether it meets the requirements for processing under the provisions of the U.S. Equal Employment Opportunity Commission (EEOC) regulations, at 29 C.F.R. §§ 1614.107(a)(1) - (a)(9). We will advise you in writing of FEMA's decision to accept or dismiss the complaint.
2. If the formal complaint is dismissed, you will have the right to appeal the decision to EEOC's Office of Federal Operations (OFO). A full explanation of your rights in this regard will be provided in the decision that you will receive.
3. If the OCR accepts the formal complaint, the agency is required to conduct an impartial and appropriate investigation within 180 calendar days of the filing of the complaint, unless you agree in writing to extend that 180-day time period. If an investigation is conducted, you will receive a copy of the investigative file at the conclusion of the investigation. You will then be given the following options: (i) to request a hearing before an EEOC Administrative Judge; (ii) to request a final agency decision by DHS

solely based on the investigative file; or (iii) to withdraw the formal complaint.

4. In most cases, the complainant has the right to request a hearing before an EEOC Administrative Judge any time after 180 days from the filing date of the formal complaint, if no final action has been taken. The appropriate EEOC District Office for the hearing request is:

Houston District Office
Mickey Leland Building
1919 Smith Street
6th Floor
Houston, TX 77002

Phone	<u>800-669-4000</u>
Fax	<u>713-651-4987</u>

5. You have the right to amend the complaint **at any time prior to the conclusion of the investigation to include issues or claims that are like or related to those raised in the complaint.** If OCR accepts the amendment, FEMA is required to complete its investigation within 180 calendar days after the amendment is filed or 360 calendar days from the filing of the original complaint, whichever is earlier.
6. The EEOC regulation at 29 C.F.R. § 1614.603 states that parties shall make reasonable efforts to voluntarily settle the complaint throughout the process. If your formal complaint is accepted, you may request to participate in FEMA's Alternative Dispute Resolution (ADR). For more information about ADR, or other resolution methods available, please contact the FEMA Office of Civil Rights.
7. **"Mixed Case" complaints are complaints that are appealable to the Merit Systems Protection Board (MSPB). For "Mixed Case" complaints ONLY the following information is provided pursuant to 29 C.F.R. § 1614.302:**
 - a. You have the right to file either a mixed case complaint with the agency or to file a mixed case appeal with the MSPB, but you may not file a mixed case complaint **and** an appeal on the same matter. Whichever is filed first shall be considered an election to proceed in that forum.
 - b. If any portion is accepted, the investigation must be completed, and a final DHS decision issued within 120 calendar days of the date the complaint was filed. You will receive a copy of the investigative file and case file.
 - c. If some, but not all, allegations raised in the complaint are dismissed, you will be provided a written explanation for that action, which can later be reviewed by DHS when it issues a final decision.
 - d. If the complaint is dismissed in its entirety, that action is considered to be a final DHS decision on the complaint and may be appealed to the MSPB (not

EEOC) within 30 calendar days after receipt of the final decision.

- e. If a final DHS decision is not issued within 120 days of the date of filing of the mixed case complaint, you may appeal the matter to the MSPB at any time thereafter, as specified in Title 5 C.F.R. § 154(b)(2), or you may file a civil action as specified in § 1614.3 IO(g), but may not do both simultaneously. If DHS issues a final decision and you are dissatisfied with it, you may appeal the matter to the MSPB within 30 days of receipt of that decision, you may file a civil action in an appropriate U.S. District Court within 30 calendar days after receiving the final DHS decision if no appeal has been filed with the MSPB.
- 8. If you file a civil action, you must name the Department head as defendant and provide his or her official title. Failure to name the Department head in his or her official capacity may result in dismissal of your case. In this case, the appropriate agency is the Department of Homeland Security, and its head is Secretary Alejandro N. Mayorkas.
- 9. If you decide to file a civil action and if you do not have, or cannot afford, the services of an attorney, you may request that the Court appoint an attorney to represent you and that the Court permit you to file the action without payment of fees, costs, or other security. The grant or denial of the request is within the sole discretion of the Court. Filing a request for an attorney does not extend the time in which to file a civil action. Both the request and the civil action must be filed within 30 days of the date you receive the agency or MSPB final decision.
- 10. Please note that under DHS policy, the agency shall accept a complaint from an aggrieved employee or applicant for employment who believes that he or she has been discriminated against based on parental status. The legal rights and remedies available to persons alleging this basis are narrower and a final decision will be rendered by DHS. Complaints raised under this basis are not within the jurisdiction of the EEOC. Accordingly, there is no right to an EEOC hearing or to an appeal following the issuance of the DHS final agency decision.
- 11. It is the complainant's responsibility to keep OCR informed of the complainant's current mailing address and telephone number. The complainant is required to notify OCR of any change of address or telephone number as soon as possible. You may write to OCR at the following address:

Federal Emergency Management
Agency Office of Civil Rights
500 C Street,
SW 4SW-0915
Washington, DC 20472-3505

FEMA-OCR-EEO@FEMA.dhs.gov

For a more complete overview of the complainant's rights and responsibilities, please refer to the *Federal EEO Complaint Processing Procedures* found at the following website: <http://www.eeoc.gov>. If you have any questions, please contact me at alice.sumpter@fema.dhs.gov.

Sincerely,

Alice Sumpter - Case Manager
Federal Emergency Management Agency (FEMA)

Your Office of Special Counsel Complaint Has Been Received

INBOX/FEMA/EEOC COMPLAINT x



CRM Records Owner
<CRMRecordsOwner@usosc.onmicrosoft.com>

Thu, Feb 27,
4:08 PM

to me

Your submission was received by the Office of Special Counsel. In the near future, we will email you to provide more specific information about your filing, including a case number and contact person at OSC.

Please bear in mind that OSC receives a large number of filings each year. While we attempt to handle them as expeditiously as is possible, we generally process them in the order received.



MEINDL FORMAL EEOC COMPLAINT-E-SIGNED

INBOX/FEMA/EEOC COMPLAINT x



femamax@gmail.com Thu, Feb 27, 2:29 PM

to FEMA-EqualRights, FEMA-civilrightsoffice, me, bcc: brent, bcc: patricia.silva, bcc: Miss

For review, consideration, comment, action.

Max Meindl

832-293-3671

femamax@gmail.com

max.meindl@fema.dhs.gov

"No act of kindness, no matter how small, is ever wasted." — [Aesop](#)

"A spoon cannot taste of the food it carries. Likewise, a foolish man cannot understand the wise man's wisdom even if he associates with a sage." — **Dalai Lama**

WARNING: This email contains FOR OFFICIAL USE ONLY (FOUO) OR PRIVACY DATA.

It may contain information exempt from public release under the Freedom of Information Act (5 U.S.C. 552).

The information contained herein must be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO/PII information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official.

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[Message clipped] [View entire message](#)

Attachments area



femamax@gmail.com Thu, Feb 27, 2:29 PM

to FEMA-EqualRights, FEMA-civilrightsoffice, me, bcc: brent, bcc: patricia.silva, bcc: Miss

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[Message clipped] [View entire message](#)

Attachments area



femamax@gmail.com Thu, Feb 27, 2:29 PM

to FEMA-EqualRights, FEMA-civilrightsoffice, me, bcc: brent, bcc: patricia.silva, bcc: Miss

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[Message clipped] [View entire message](#)

Attachments area



femamax@gmail.com Thu, Feb 27, 2:31 PM

to FEMA-EqualRights, FEMA-civilrightsoffice, me, bcc: beth, bcc: brent, bcc: patricia.silva

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[Message clipped] [View entire message](#)

Attachments area



Reasonable Accommodation An Effective Interactive Process All Employee Resource

The Interactive Process

When an employee (or applicant for employment) requests an accommodation, it triggers an obligation of the employer to either provide the requested accommodation or seek information to evaluate the need and feasibility of the request.

To help determine effective accommodations, the Equal Employment Opportunity Commission (EEOC), recommends that employers use an “interactive process,” which simply means that employers and those individuals with disabilities who request accommodations work together to come up accommodation solutions. It is intended as a good faith interaction between the parties – a back and forth of questions and information sharing relating to the limitations and capabilities of the requestor, the needs and constraints of the employer, and the range of possibilities to make it all work.

Failing to engage in an “interactive process” in appropriate circumstances can result in providing an accommodation that is ineffective, or improperly denying a reasonable accommodation. In many instances, an accommodation is obvious and feasible. Other times, the requested accommodation may be burdensome or not clearly connected to the disability. Sometimes, the requestor doesn’t have an accommodation in mind and instead, just knows that a disability is getting in the way of doing the job. And other times, an accommodation may cause the employer an undue hardship.

General Framework for the Interactive Process

When a reasonable accommodation is not obvious, an appropriate accommodation is determined through a flexible, interactive process. Consider the following general framework to avoid running afoul of the interactive process:

- Analyze the particular job involved and determine its purpose and essential functions meting out those functions which are not central to the role. And while a position description can be helpful in serving as a roadmap for conversation, keep in mind that job descriptions are not always a complete or accurate picture.
- Consult with the individual with a disability to ascertain the precise job-related limitations imposed by the individual’s disability and how those limitations could be overcome with a reasonable accommodation. The interactive process should start with a dialogue that focuses on understanding the difficulties that the individual is facing as a result of the disability
 - How does the individual’s impairment interfere with performing the job?
 - What are the specific tasks that are being impacted? Are those tasks essential functions or marginal functions?
 - What is the effect of the disability on each particular task?

**Reasonable Accommodation
An Effective Interactive Process
All Employee Resource**

- Identify and evaluate potential accommodations. Assess the effectiveness each would have in enabling the individual to perform the essential functions of the position. Consider the preference of the individual and select and implement the accommodation that is most appropriate for both the employee and the employer without causing an undue hardship.
 - What are the possible accommodations that will enable the individual to perform their essential functions?
 - How will the specific accommodation enable the individual to perform their essential functions?
 - Are there other accommodation that would be more feasible for the agency?
 - Requesting appropriate medical documentation should be sought to facilitate the interactive process, not to replace it.
- Implement an identified accommodation promptly. On-going dialogue is especially important where implementation is delayed. Consider whether an interim accommodation is necessary until a more permanent accommodation solution can be implemented.
- Even after the accommodation has been agreed upon, the interactive process is not over. The accommodation should be monitored to ensure that it is satisfactory for both the employer and the employee. If an accommodation is no longer effective, promptly reengage in the interactive process.

Tips for an Effective Interactive Process

- ***Be genuine and open:*** Accommodations are about doing things differently to help overcome disability-related limitations, so keep an open mind when exploring accommodation solutions.
- ***Invite the requestor to suggest accommodations:*** The requestor may have some good accommodation ideas but may be hesitant to bring them up without being asked to do so.
- ***Encourage ongoing communication.*** For any workplace issue/concern, ongoing communication is the key to success. The same is true for accommodations – employers should encourage employees to communicate any issues they have with their accommodations.

TO: All Associates

DATE: January 6, 2014

Subject: **Statement of Anti-Discrimination, Harassment, Retaliation, and Bullying
(hereinafter “Fair Treatment & Respect Policy”)**

The Company’s Core Values and Principles of Fair Treatment: It is the practice of Crothall Healthcare Inc., Eurest Services and SSC Service Solutions (the “Company”) to provide a work environment for all Associates that is free from unlawful discrimination and harassment based on sex, sexual orientation, gender identity, race, religion, color, disability, age, pregnancy, child birth or any related condition, national origin, veteran status, genetic information, protected concerted activity, or any other classification protected by law (hereinafter “protected classifications”).

It is also the practice of the Company to provide a respectful workplace that is free of bullying and intimidating behavior. Bullying is considered any offensive, intimidating, or cruel behavior which humiliates, belittles, or demeans any individual.

Finally, it is the practice of the Company to provide a workplace with open communication, and that is free from retaliation or unfair treatment against any individual that reports good faith concerns of suspected violations of this Fair Treatment and Respect Policy.

In accordance with the Company’s core values and philosophy, the Company complies with and strictly enforces federal, state, and local laws that prohibit discrimination, harassment, and retaliation, including but not limited to the following laws (as amended): Title VII of the Civil Rights Act of 1964; the Pregnancy Discrimination Act of 1978; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990; the National Labor Relations Act of 1935; the Equal Pay Act of 1963; the Genetic Information Nondiscrimination Act of 2008; or by similar state or local laws. The Company however goes above and beyond these legal requirements and strives to provide every Associate with a professional and respectful work environment. Accordingly, an Associate may be subject to discipline under this Policy even if his/her conduct does not constitute a violation of applicable law.

Examples of Unacceptable Conduct in Violation of this Policy: The below categories are examples of unacceptable conduct that shall be deemed a violation of this Policy and will result in disciplinary action up to and including termination. This list is not exhaustive and is meant to provide examples only.

- **Unfair Opportunities:** Making any decision regarding the hiring, firing, promotion, or demotion of an Associate or making any decision that adversely affects the wages, benefits, or working conditions of an Associate based in whole or in part on a protected classification.
- **Verbal Mistreatment:** Use of epithets, slurs, or negative stereotype; Inappropriate comments about another’s body, anatomy, and/or dress; Questions about another’s sexual preference or

practices; Sharing sexual or otherwise offensive stories, jokes and experiences; Making lewd or suggestive gestures or comments.

- **Visual Mistreatment:** Offensive and/or sexually explicit material (electronic or paper), including: inappropriate e-mails, pictures, text messages, blogs, tweets, chat rooms, posters, calendars, cartoons, drawings, or writings that are offensive, sexual, or contain a negative stereotype.
- **Sexual Mistreatment or Favors:** Making sexual advances or other verbal or physical conduct of a sexual nature in or outside the workplace;
- **Physical Mistreatment:** Intentional and unwelcome physical contact outside of social norms. This includes intentional and unwelcome touching, pushing, pinching, patting, blocking, grabbing, poking, or brushing against another.
- **Bullying and Antagonizing Behaviors:** Malicious, offensive, and/or abusive behavior or remarks; Making maliciously false statements or ridiculing a person or his/her family; Persistent name calling which is demeaning or belittling; Using a person as the brunt of jokes.

The Company will not tolerate discrimination, harassment, retaliation, or bullying. In order to uphold this Fair Treatment and Respect Policy, the Company requires that all Associates conduct themselves professionally and respectfully.

The Company requires that Associates report all suspected violations of this Policy. Pursuant to the Company's Open Communication Policy, Associates are encouraged to contact their manager first to see if the matter can be swiftly and properly resolved. However if an Associate is not comfortable discussing concerns with their manager, or the concern is about their manager, the Associate should contact one of the following: (1) a Company Human Resources representative; (2) the HR Service Center at 1-800-447-4476 Option 6 or via email to sus-askhr@compass-usa.com (3) or the "SpeakUp" Hotline at 1-866-654-6626 or online at www.compass-speakup.com.

Any Associate who brings a concern to the Company's attention is assured that the matter will be fully and fairly investigated and that the complaint will be dealt with promptly, and in confidence to the extent possible. Based on the investigation findings, if the Company finds that this Policy was violated, disciplinary action up to and including termination may result based on the severity of the offense.



Robert H. Kuttel
Chief Executive Officer, Support Services



Raj Pragasam
Senior Vice President, Human Resources

**Acknowledgement of Receipt of the
Statement of Anti-Discrimination, Harassment, Retaliation, and Bullying
("Fair Treatment & Respect Policy") & 2014 Employment Policies**

This will acknowledge that I have received, read, and understand the "Statement of Anti-Discrimination, Harassment, and Bullying" ("Fair Treatment & Respect Policy") of Crothall Healthcare Inc., Eurest Services and SSC Service Solutions which Policy is dated January 6, 2014. I also acknowledge and understand my responsibility to be familiar with the Company's mandatory employment policies, Code of Ethics, and Code of Business Conduct, which materials and information are posted conspicuously for my review, available from my Unit Manager, and accessible online via the Support Services sector page of MyCompass (<https://mycompass.compass-usa.com>).

Associate's Printed Name_____

Associate's Signature_____

Date _____

Please complete this Acknowledgement and return it to your immediate supervisor as soon as possible for filing with your personnel record.

Affirmative Action Plan for the Recruitment, Hiring, Advancement, and Retention of Persons with Disabilities

To capture agencies' affirmative action plan for persons with disabilities (PWD) and persons with targeted disabilities (PWTD), EEOC regulations (29 C.F.R. § 1614.203(e)) and MD-715 require agencies to describe how their affirmative action plan will improve the recruitment, hiring, advancement, and retention of applicants and employees with disabilities.

Section I: Efforts to Reach Regulatory Goals

EEOC regulations (29 CFR §1614.203(d)(7)) require agencies to establish specific numerical goals for increasing the participation of persons with disabilities and persons with targeted disabilities in the federal government

1. Using the goal of 12% as the benchmark, does your agency have a trigger involving PWD by grade level cluster in the permanent workforce? If "yes", describe the trigger(s) in the text box.

a. Cluster GS-1 to GS-10 (PWD)

Answer No

b. Cluster GS-11 to SES (PWD)

Answer No

Table B4-1Per. In CRCL-provided tables, is tabulated below the B4-1Per table. If using local data, you will need to manually tabulate to collapse pay grades.

*For GS employees, please use two clusters: GS-1 to GS-10 and GS-11 to SES, as set forth in 29 C.F.R. § 1614.203(d)(7). For all other pay plans, please use the approximate grade clusters that are above or below GS-11 Step 1 in the Washington, DC metropolitan region.

2. Using the goal of 2% as the benchmark, does your agency have a trigger involving PWTD by grade level cluster in the permanent workforce? If "yes", describe the trigger(s) in the text box.

a. Cluster GS-1 to GS-10 (PWTD)

Answer No

b. Cluster GS-11 to SES (PWTD)

Answer No

Table B4-1Per. In CRCL-provided tables, is tabulated below the B4-1Per table. If using local data, you will need to manually tabulate to collapse pay grades.

Grade Level Cluster(GS or Alternate Pay Planb)	Total	Reportable Disability		Targeted Disability	
	#	#	%	#	%
Numerical Goal	--	12%		2%	
Grades GS-1 to GS-10	336	110	32.74	14	4.17
Grades GS-11 to SES	4367	1308	29.95	112	2.56

3. Describe how the agency has communicated the numerical goals to the hiring managers and/or recruiters.

Through various presentations and discussions made by the OER Director, Disability Program Manager, Selective Placement Coordinator, the agency has made clear its commitment to meeting the numerical goals set forth under Section 501; 12% and 2% for PWD and PWTD, respectively. This information was provided in outreach meetings with Executive Officers, HR staff and hiring managers, as well as HR Liaison Group and Employee Resource Groups (ERG).

Section II: Model Disability Program

Pursuant to 29 C.F.R. § 1614.203(d)(1), agencies must ensure sufficient staff, training and resources to recruit and hire persons with disabilities and persons with targeted disabilities, administer the reasonable accommodation program and special emphasis program, and oversee any other disability hiring and advancement program the agency has in place.

A. PLAN TO PROVIDE SUFFICIENT & COMPETENT STAFFING FOR THE DISABILITY PROGRAM

- Has the agency designated sufficient qualified personnel to implement its disability program during the reporting period? If “no”, describe the agency’s plan to improve the staffing for the upcoming year.

Answer Yes

FEMA OER has an appropriate level of staff in the disability unit reasonable accommodation program and for ABA compliance. FEMA OCHCO has dedicated staff for the selective service placement program coordinator role and helps FEMA meet hiring objectives and enculturates the use of special hiring authorities for PWD and PWTD across FEMA.

- Identify all staff responsible for implementing the agency's disability employment program by the office, staff employment status, and responsible official.

Disability Program Task	# of FTE Staff By Employment Status			Responsible Official (Name, Title, Office Email)
	Full Time	Part Time	Collateral Duty	
Processing reasonable accommodation requests from applicants and employees	5	0	0	kevin.perkins@fema.dhs.gov
Special Emphasis Program for PWD and PWTD	1	0	0	kevin.perkins@fema.dhs.gov
Section 508 Compliance	1	0	0	janice.fenlason@fema.dhs.gov
Processing applications from PWD and PWTD	1	0	1	Christopher Pugh Selective Placement Program Coordinator chris.pugh@fema.dhs.gov
Answering questions from the public about hiring authorities that take disability into account	1	0	21	Christopher Pugh Selective Placement Coordinator chris.pugh@fema.dhs.gov
Architectural Barriers Act Compliance	1	0	0	Alejandro.ortiz@fema.dhs.gov

- Has the agency provided disability program staff with sufficient training to carry out their responsibilities during the reporting period? If “yes”, describe the training that disability program staff have received. If “no”, describe the training planned for the upcoming year.

Answer Yes

OER disability unit staff participate in yearly NELI ADA & FMLA compliance update training. All staff are provided one training per quarter on a disability topic, trainings include section 508, DHS accessibility case management system, DHS disability etiquette, and telework as an accommodation. FEMA will ensure the availability of disability specific training to enhance full comprehension of disability law and procedural elements in accordance with Rehabilitation Act and EEOC Enforcement Guidance. The Disability Unit will participate in DHS CRCL sponsored trainings that target development of EEO practitioners within the disability

programming. And also implement programmed training directly related to FEMA policy, procedure and practice to achieve a continuous systemic approach in the process of reasonable accommodation, particularly related to field and disaster environments.

B. PLAN TO ENSURE SUFFICIENT FUNDING FOR THE DISABILITY PROGRAM

Has the agency provided sufficient funding and other resources to successfully implement the disability program during the reporting period? If “no”, describe the agency’s plan to ensure all aspects of the disability program have sufficient funding and other resources.

Answer Yes

Funding for reasonable accommodation program is provided by OER. OER has a consistent process for budget planning and execution with the OCFO.

Section III: Program Deficiencies In The Disability Program

Brief Description of Program Deficiency	C.2.b.5. Does the agency process all initial accommodation requests, excluding ongoing interpretative services, within the time frame set forth in its reasonable accommodation procedures? [see MD-715, II(C)] If “no”, please provide the percentage of timely-processed requests, excluding ongoing interpretative services, in the comments column.		
Objective	Improve the timeliness of processing accommodation requests through hiring		
Target Date	Sep 30, 2023		
Completion Date			
Planned Activities	<u>Target Date</u>	<u>Completion Date</u>	<u>Planned Activity</u>
	Sep 30, 2022	September 30, 2022	Develop Standard Operating Procedures (SOPs) to document processes for efficiency, effectiveness and uniformity
	Sep 30, 2023		Hire three (3) and detail at least five (5) individuals to resolve a current backlog of RA requests
Accomplishments	<u>Fiscal Year</u>	<u>Accomplishment</u>	
	2022	Developed SOPs to document processes for efficiency, effectiveness and uniformity for new hires and current staff to reference	

Section IV: Plan to Recruit and Hire Individuals with Disabilities

Pursuant to 29 C.F.R. §1614.203(d)(1)(i) and (ii), agencies must establish a plan to increase the recruitment and hiring of individuals with disabilities. The questions below are designed to identify outcomes of the agency’s recruitment program plan for PWD and PWTD

A. PLAN TO IDENTIFY JOB APPLICATIONS WITH DISABILITIES

1. Describe the programs and resources the agency uses to identify job applicants with disabilities, including individuals with targeted disabilities.

FEMA utilizes multiple strategies to recruit qualified applicants with disabilities and targeted disabilities via hiring authorities that take disability into account, including: · The Workforce Recruitment Program (WRP) – A recruitment and referral program that connects federal and private sector employers nationwide with highly motivated college students and recent graduates with disabilities who are eager to demonstrate their abilities in the workplace through summer or permanent jobs. · The OPM USA Staffing Agency Talent Portal (ATP) – A database of Schedule A applicants that PSB uses to conduct candidate sourcing upon request. · Noncompetitive Applicant Pool – OCHCO/TRAD/PSB maintains a repository of noncompetitive applicants who have applied to FEMA vacancies. These applicants will be prequalified for a select group of occupations, and PSB uses this tool as a resource for noncompetitive candidate sourcing. · Career Fairs – PSB participated in the Gallaudet University Career Fair, where recruiters shared information on FEMA job opportunities, internship opportunities, including the Pathways Program. · Local

Universities – PSB developed an email distribution list for a variety of local universities with a focus on providing outreach to university Disability Office contacts. We also continue to recommend to unsolicited Schedule A applicants to upload their resume and documentation to USA Jobs to increase exposure to DHS agency wide employment. We recommend that the applicants use the OPM Resume Builder to ensure that their resume is in a federal format. Furthermore, we encourage applicants to make their resumes searchable, other agencies can review their resume and increase the opportunity of getting a job.

2. Pursuant to 29 C.F.R. §1614.203(a)(3), describe the agency’s use of hiring authorities that take disability into account (e.g., Schedule A) to recruit PWD and PWTD for positions in the permanent workforce

FEMA uses several hiring authorities that take disability into account to recruit PWD and PWTD for positions in the permanent workforce, including the Schedule A hiring authority for individuals with intellectual disabilities, severe physical disabilities, or psychiatric disabilities, as set forth at 5 CFR 213.3102(u); the Veterans' Recruitment Appointment authority, as set forth at 5 CFR part 307; and the 30% or More Disabled Veteran authority, as set forth at 5 CFR 316.302(b)(4), 316.402(b)(4). FEMA includes language in vacancy announcements encouraging individuals with disabilities to apply for jobs using the Schedule A excepted service hiring authority. Personnel strategies and practices also include rules related to hiring veterans with disabilities. FEMA has developed comprehensive policies governing Schedule A for people with disabilities and promotes the use of Schedule A via Strategic Recruitment Consultation meetings which consist of Program Office representatives. OCHCO also gave presentations to HR Liaisons and other administrative staff to convey to managers, as staff leverages those groups.

3. When individuals apply for a position under a hiring authority that takes disability into account (e.g., Schedule A), explain how the agency (1) determines if the individual is eligible for appointment under such authority; and, (2) forwards the individual's application to the relevant hiring officials with an explanation of how and when the individual may be appointed.

OCHCO continues to regularly engage in recruitment and outreach activities with job seekers with disabilities and hiring managers seeking talent sourcing for candidates. OCHCO will determine qualifications based on the individuals resume and confirm their Schedule A certification letter was drafted by the medical professional or state sponsored agency that signed their letter.

4. Has the agency provided training to all hiring managers on the use of hiring authorities that take disability into account (e.g., Schedule A)? If “yes”, describe the type(s) of training and frequency. If “no”, describe the agency’s plan to provide this training.

Answer Yes

Formal and informal training on the use of the hiring authorities that take disability into account was provided to managers and supervisors during the year as part of the FEMA annual mandatory training requirements. All managers and hiring officials are individually provided guidance and training from the Selective Placement Program Coordinator on the use of special hiring authorities to hire qualified individuals under Schedule A and through WRP programs to meet the 12% and 2% goals set by EEOC. The training included laws, regulations, policies, and executive mandates that ensure people with disability are inclusive to the FEMA workplace.

B. PLAN TO ESTABLISH CONTACTS WITH DISABILITY EMPLOYMENT ORGANIZATIONS

Describe the agency’s efforts to establish and maintain contacts with organizations that assist PWD, including PWTD, in securing and maintaining employment.

In FY 2022, OCHCO established new relationships with disability organizations such as: Bender Virtual Career Fair, Maryland Division of Rehabilitation Services (DORS), and the Division of Rehabilitative Services in Alexandria, VA. The agency continues partnerships with the Workforce Recruitment Program, Gallaudet University, Virginia, DC Vocational Rehab Offices, and the EOP STEM Diversity Career Expo.

C. PROGRESSION TOWARDS GOALS (RECRUITMENT AND HIRING)

1. Using the goals of 12% for PWD and 2% for PWTD as the benchmarks, do triggers exist for PWD and/or PWTD among the new hires in the permanent workforce? If “yes”, please describe the triggers below.

a. New Hires for Permanent Workforce (PWD) Answer No

b. New Hires for Permanent Workforce (PWTD) Answer No

Table B1.

New Hires	Total (#)	Reportable Disability		Targeted Disability	
		Permanent Workforce (%)	Temporary Workforce (%)	Permanent Workforce (%)	Temporary Workforce (%)
% of Total Applicants	1674	78.26	0.00	35.07	0.00
% of Qualified Applicants	778	77.76	0.00	30.59	0.00
% of New Hires	47	68.09	0.00	25.53	0.00

2. Using the qualified applicant pool as the benchmark, do triggers exist for PWD and/or PWTD among the new hires for any of the mission- critical occupations (MCO)? If “yes”, please describe the triggers below. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. New Hires for MCO (PWD) Answer No

b. New Hires for MCO (PWTD) Answer No

Table B6.

New Hires to Mission-Critical Occupations	Total (#)	Reportable Disability	Targetable Disability
		New Hires (%)	New Hires (%)
Numerical Goal	--	12%	2%
0089 EMERGENCY MANAGEMENT	20	70.00	25.00
0301 MISCELLANEOUS ADMINISTRATION	10	70.00	30.00
0343 MANAGEMENT PROGRAM ANALYSIS	9	66.67	22.22
0391 TELECOMMUNICATIONS	0	0.00	0.00
0501 FINANCIAL ADMINISTRATION & PROGRAM	1	0.00	0.00
1102 CONTRACTING	2	50.00	50.00
1712 TRAINING INSTRUCTION	0	0.00	0.00
2210 INFORMATION TECHNOLOGY MANAGEMENT	5	80.00	20.00

3. Using the relevant applicant pool as the benchmark, do triggers exist for PWD and/or PWTD among the qualified internal applicants for any of the mission-critical occupations (MCO)? If “yes”, please describe the triggers below. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. Qualified Applicants for MCO (PWD) Answer No

b. Qualified Applicants for MCO (PWTD)

Answer No

Table B6.

4. Using the qualified applicant pool as the benchmark, do triggers exist for PWD and/or PWTD among employees promoted to any of the mission- critical occupations (MCO)? If “yes”, please describe the triggers below. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. Promotions for MCO (PWD)

Answer No

b. Promotions for MCO (PWTD)

Answer No

Table B6.

Section V: Plan to Ensure Advancement Opportunities for Employees with Disabilities

Pursuant to 29 C.F.R. §1614.203(d)(1)(iii), agencies are required to provide sufficient advancement opportunities for employees with disabilities. Such activities might include specialized training and mentoring programs, career development opportunities, awards programs, promotions, and similar programs that address advancement. In this section, agencies should identify, and provide data on programs designed to ensure advancement opportunities for employees with disabilities.

A. ADVANCEMENT PROGRAM PLAN

Describe the agency’s plan to ensure PWD, including PWTD, have sufficient opportunities for advancement.

FEMA provides training opportunities and encourages all employees, including veterans and disabled veterans, to take advantage of career development opportunities. In addition, FEMA participates in internal career development programs, including the FEMA Emerging Leaders Program and the Future Leader Program, which combines in-person, independent and online activities for a yearlong program so that employees may receive intensive developmental assignments to prepare and qualify them for the targeted series and grade. These career development programs include a mandatory mentoring component. Other career developmental opportunities include the use of employee rotation/detail (temporary assignments) to other offices or components. Additionally, FEMA has a mentoring program open to all employees, including PWD and PWTD, which facilitates junior-to-senior and peer-to-peer mentoring relationships.

B. CAREER DEVELOPMENT OPPORTUNITES

1. Please describe the career development opportunities that the agency provides to its employees.

Within the Office of the Chief Human Capital Officer (OCHCO), the Learning, Engagement and Diversity (LEAD) Division offers high-impact developmental programs and services to employees nation-wide in order to strengthen the Agency’s ability to support our citizens and first responders. The goal is to develop leaders at all levels from emerging leaders or high performing individuals to executive level personnel. LEAD provides a variety of supervisory and leadership development opportunities within a tiered progression framework and single competency-based learning programs/courses. LEAD supports one of the 2022-2026 FEMA Strategic Plan, Objective 1.1 to cultivate a FEMA that prioritizes and harnesses a diverse workforce. LEAD provides oversight for leader development programs, mentoring, rotations, mandatory training, competency-based assessment, policy, and guidance, and other professional development opportunities. Also, as part of LEAD’s career development related efforts, the Career Path Tool (CPT) pathing enables employees to identify internal opportunities based on their own skills, experiences, competencies, interests, and preferences – The CPT maps and outlines career paths for employees to include career path information for movement within and across roles in their functional community, important competencies and proficiency levels for each path; and suggested developmental opportunities (e.g., formal training, mentoring, on the job) for each role.

2. In the table below, please provide the data for career development opportunities that require competition and/or supervisory recommendation/ approval to participate.

Career Development Opportunities	Total Participants		PWD		PWTD	
	Applicants (#)	Selectees (#)	Applicants (%)	Selectees (%)	Applicants (%)	Selectees (%)
Internship Programs	330	46	14.0	11.0	0.0	0.0
Mentoring Programs	115	89	83.0	71.0	4.0	3.0
Training Programs	785	601	88.0	89.0	4.0	3.0
Fellowship Programs	12	6	0.0	0.0	0.0	0.0
Coaching Programs	0	0	0.0	0.0	0.0	0.0
Detail Programs	0	0	0.0	0.0	0.0	0.0
Other Career Development Programs	0	0	0.0	0.0	0.0	0.0

3. Do triggers exist for PWD among the applicants and/or selectees for any of the career development programs? (The appropriate benchmarks are the relevant applicant pool for the applicants and the applicant pool for selectees.) If “yes”, describe the trigger(s) in the text box. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. Applicants (PWD)

Answer No

b. Selections (PWD)

Answer No

Tables B7 and B8.

4. Do triggers exist for PWTD among the applicants and/or selectees for any of the career development programs? (The appropriate benchmarks are the relevant applicant pool for the applicants and the applicant pool for selectees.) If “yes”, describe the trigger(s) in the text box. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. Applicants (PWTD)

Answer No

b. Selections (PWTD)

Answer No

Tables B7 and B8.

C. AWARDS

1. Using the inclusion rate as the benchmark, does your agency have a trigger involving PWD and/or PWTD for any level of the time-off awards, bonuses, or other incentives? If “yes”, please describe the trigger(s) in the text box.

a. Awards, Bonuses, & Incentives (PWD)

Answer No

b. Awards, Bonuses, & Incentives (PWTD)

Answer No

Table B9.

Time-Off Awards	Total (#)	Reportable Disability %	Without Reportable Disability %	Targeted Disability %	Without Targeted Disability %
Time-Off Awards 1 - 10 hours: Awards Given	0	0.00	0.00	0.00	0.00
Time-Off Awards 1 - 10 Hours: Total Hours	0	0.00	0.00	0.00	0.00
Time-Off Awards 1 - 10 Hours: Average Hours	0	0.00	0.00	0.00	0.00

Time-Off Awards	Total (#)	Reportable Disability %	Without Reportable Disability %	Targeted Disability %	Without Targeted Disability %
Time-Off Awards 11 - 20 hours: Awards Given	0	0.00	0.00	0.00	0.00
Time-Off Awards 11 - 20 Hours: Total Hours	0	0.00	0.00	0.00	0.00
Time-Off Awards 11 - 20 Hours: Average Hours	0	0.00	0.00	0.00	0.00
Time-Off Awards 21 - 30 hours: Awards Given	0	0.00	0.00	0.00	0.00
Time-Off Awards 21 - 30 Hours: Total Hours	0	0.00	0.00	0.00	0.00
Time-Off Awards 21 - 30 Hours: Average Hours	0	0.00	0.00	0.00	0.00
Time-Off Awards 31 - 40 hours: Awards Given	0	0.00	0.00	0.00	0.00
Time-Off Awards 31 - 40 Hours: Total Hours	0	0.00	0.00	0.00	0.00
Time-Off Awards 31 - 40 Hours: Average Hours	0	0.00	0.00	0.00	0.00
Time-Off Awards 41 or more Hours: Awards Given	0	0.00	0.00	0.00	0.00
Time-Off Awards 41 or more Hours: Total Hours	0	0.00	0.00	0.00	0.00
Time-Off Awards 41 or more Hours: Average Hours	0	0.00	0.00	0.00	0.00

Cash Awards	Total (#)	Reportable Disability %	Without Reportable Disability %	Targeted Disability %	Without Targeted Disability %
Cash Awards: \$501 - \$999: Awards Given	0	0.00	0.00	0.00	0.00
Cash Awards: \$501 - \$999: Total Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$501 - \$999: Average Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$1000 - \$1999: Awards Given	0	0.00	0.00	0.00	0.00
Cash Awards: \$1000 - \$1999: Total Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$1000 - \$1999: Average Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$2000 - \$2999: Awards Given	0	0.00	0.00	0.00	0.00
Cash Awards: \$2000 - \$2999: Total Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$2000 - \$2999: Average Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$3000 - \$3999: Awards Given	0	0.00	0.00	0.00	0.00
Cash Awards: \$3000 - \$3999: Total Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$3000 - \$3999: Average Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$4000 - \$4999: Awards Given	0	0.00	0.00	0.00	0.00
Cash Awards: \$4000 - \$4999: Total Amount	0	0.00	0.00	0.00	0.00

Cash Awards	Total (#)	Reportable Disability %	Without Reportable Disability %	Targeted Disability %	Without Targeted Disability %
Cash Awards: \$4000 - \$4999: Average Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$5000 or more: Awards Given	0	0.00	0.00	0.00	0.00
Cash Awards: \$5000 or more: Total Amount	0	0.00	0.00	0.00	0.00
Cash Awards: \$5000 or more: Average Amount	0	0.00	0.00	0.00	0.00

2. Using the inclusion rate as the benchmark, does your agency have a trigger involving PWD and/or PWTD for quality step increases or performance- based pay increases? If “yes”, please describe the trigger(s) in the text box.

a. Pay Increases (PWD) Answer No

b. Pay Increases (PWTD) Answer No

Table B9.

Other Awards	Total (#)	Reportable Disability %	Without Reportable Disability %	Targeted Disability %	Without Targeted Disability %
Total Performance Based Pay Increases Awarded	0	0.00	0.00	0.00	0.00

3. If the agency has other types of employee recognition programs, are PWD and/or PWTD recognized disproportionately less than employees without disabilities? (The appropriate benchmark is the inclusion rate.) If “yes”, describe the employee recognition program and relevant data in the text box.

a. Other Types of Recognition (PWD) Answer N/A

b. Other Types of Recognition (PWTD) Answer N/A

This information is currently not included in data tables.

D. PROMOTIONS

1. Does your agency have a trigger involving PWD among the qualified internal applicants and/or selectees for promotions to the senior grade levels? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) For non-GS pay plans, please use the approximate senior grade levels. If “yes”, describe the trigger(s) in the text box. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. SES

i. Qualified Internal Applicants (PWD) Answer No

ii. Internal Selections (PWD) Answer No

b. Grade GS-15

i. Qualified Internal Applicants (PWD) Answer No

ii. Internal Selections (PWD) Answer No

c. Grade GS-14

i. Qualified Internal Applicants (PWD) Answer No

ii. Internal Selections (PWD)	Answer	No
d. Grade GS-13		
i. Qualified Internal Applicants (PWD)	Answer	No
ii. Internal Selections (PWD)	Answer	No

Table B7-1.

2. Does your agency have a trigger involving PWTD among the qualified internal applicants and/or selectees for promotions to the senior grade levels? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) For non-GS pay plans, please use the approximate senior grade levels. If “yes”, describe the trigger(s) in the text box. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. SES		
i. Qualified Internal Applicants (PWTD)	Answer	No
ii. Internal Selections (PWTD)	Answer	No
b. Grade GS-15		
i. Qualified Internal Applicants (PWTD)	Answer	No
ii. Internal Selections (PWTD)	Answer	No
c. Grade GS-14		
i. Qualified Internal Applicants (PWTD)	Answer	No
ii. Internal Selections (PWTD)	Answer	No
d. Grade GS-13		
i. Qualified Internal Applicants (PWTD)	Answer	No
ii. Internal Selections (PWTD)	Answer	No

Table B7-1 .

3. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWD among the new hires to the senior grade levels? For non-GS pay plans, please use the approximate senior grade levels. If “yes”, describe the trigger(s) in the text box. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. New Hires to SES (PWD)	Answer	No
b. New Hires to GS-15 (PWD)	Answer	No
c. New Hires to GS-14 (PWD)	Answer	No
d. New Hires to GS-13 (PWD)	Answer	No

Table B7-1 .

4.

Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWTB among the new hires to the senior grade levels? For non-GS pay plans, please use the approximate senior grade levels. If "yes", describe the trigger(s) in the text box. Select "n/a" if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. New Hires to SES (PWTB)	Answer	No
b. New Hires to GS-15 (PWTB)	Answer	No
c. New Hires to GS-14 (PWTB)	Answer	No
d. New Hires to GS-13 (PWTB)	Answer	No

Table B7-1.

5. Does your agency have a trigger involving PWD among the qualified internal applicants and/or selectees for promotions to supervisory positions? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) If "yes", describe the trigger(s) in the text box. Select "n/a" if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. Executives		
i. Qualified Internal Applicants (PWD)	Answer	N/A
ii. Internal Selections (PWD)	Answer	N/A
b. Managers		
i. Qualified Internal Applicants (PWD)	Answer	N/A
ii. Internal Selections (PWD)	Answer	N/A
c. Supervisors		
i. Qualified Internal Applicants (PWD)	Answer	N/A
ii. Internal Selections (PWD)	Answer	N/A

Table B8. We note that the HR data systems do not track employee level categories as asked for by this question.

6. Does your agency have a trigger involving PWTB among the qualified internal applicants and/or selectees for promotions to supervisory positions? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) If "yes", describe the trigger(s) in the text box. Select "n/a" if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

a. Executives		
i. Qualified Internal Applicants (PWTB)	Answer	N/A
ii. Internal Selections (PWTB)	Answer	N/A
b. Managers		
i. Qualified Internal Applicants (PWTB)	Answer	N/A
ii. Internal Selections (PWTB)	Answer	N/A
c. Supervisors		

- | | | |
|---|--------|-----|
| i. Qualified Internal Applicants (PWTD) | Answer | N/A |
| ii. Internal Selections (PWTD) | Answer | N/A |

Table B8. We note that the HR data systems do not track employee level categories as asked for by this question.

7. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWD among the selectees for new hires to supervisory positions? If “yes”, describe the trigger(s) in the text box. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

- | | | |
|------------------------------------|--------|-----|
| a. New Hires for Executives (PWD) | Answer | N/A |
| b. New Hires for Managers (PWD) | Answer | N/A |
| c. New Hires for Supervisors (PWD) | Answer | N/A |

Table B8. We note that the HR data systems do not track employee level categories as asked for by this question.

8. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWTD among the selectees for new hires to supervisory positions? If “yes”, describe the trigger(s) in the text box. Select “n/a” if the applicant data is not available for your agency, and describe your plan to provide the data in the text box.

- | | | |
|-------------------------------------|--------|-----|
| a. New Hires for Executives (PWTD) | Answer | N/A |
| b. New Hires for Managers (PWTD) | Answer | N/A |
| c. New Hires for Supervisors (PWTD) | Answer | N/A |

Table B8. We note that the HR data systems do not track employee level categories as asked for by this question.

Section VI: Plan to Improve Retention of Persons with Disabilities

To be model employer for persons with disabilities, agencies must have policies and programs in place to retain employees with disabilities. In this section, agencies should: (1) analyze workforce separation data to identify barriers retaining employees with disabilities; (2) describe efforts to ensure accessibility of technology and facilities; and (3) provide information on the reasonable accommodation program and workplace assistance services.

A. VOLUNTARY AND INVOLUNTARY SEPARATIONS

1. In this reporting period, did the agency convert all eligible Schedule A employees with a disability into the competitive service after two years of satisfactory service (5 C.F.R. § 213.3102(u)(6)(i))? If “no”, please explain why the agency did not convert all eligible Schedule A employees.

Answer Yes

2. Using the inclusion rate as the benchmark, did the percentage of PWD among voluntary and involuntary separations exceed that of persons without disabilities? If “yes”, describe the trigger below.

- | | | |
|----------------------------------|--------|----|
| a. Voluntary Separations (PWD) | Answer | No |
| b. Involuntary Separations (PWD) | Answer | No |

Table B1.

Seperations	Total #	Reportable Disabilities %	Without Reportable Disabilities %
Permanent Workforce: Reduction in Force	0	0.00	0.00
Permanent Workforce: Removal	7	0.05	0.03
Permanent Workforce: Resignation	103	1.02	0.35
Permanent Workforce: Retirement	187	1.42	0.72
Permanent Workforce: Other Separations	194	1.52	0.74
Permanent Workforce: Total Separations	491	4.01	1.84

3. Using the inclusion rate as the benchmark, did the percentage of PWTD among voluntary and involuntary separations exceed that of persons without targeted disabilities? If “yes”, describe the trigger below.

a. Voluntary Separations (PWTD) Answer No

b. Involuntary Separations (PWTD) Answer No

Table B1.

Seperations	Total #	Targeted Disabilities %	Without Targeted Disabilities %
Permanent Workforce: Reduction in Force	0	0.00	0.00
Permanent Workforce: Removal	7	0.00	0.03
Permanent Workforce: Resignation	103	0.67	0.46
Permanent Workforce: Retirement	187	1.33	0.83
Permanent Workforce: Other Separations	194	1.56	0.86
Permanent Workforce: Total Separations	491	3.56	2.19

4. If a trigger exists involving the separation rate of PWD and/or PWTD, please explain why they left the agency using exit interview results and other data sources.

N/A

B. ACCESSIBILITY OF TECHNOLOGY AND FACILITIES

Pursuant to 29 CFR §1614.203(d)(4), federal agencies are required to inform applicants and employees of their rights under Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794(b), concerning the accessibility of agency technology, and the Architectural Barriers Act of 1968 (42 U.S.C. § 4151-4157), concerning the accessibility of agency facilities. In addition, agencies are required to inform individuals where to file complaints if other agencies are responsible for a violation.

1. Please provide the internet address on the agency’s public website for its notice explaining employees’ and applicants’ rights under Section 508 of the Rehabilitation Act, including a description of how to file a complaint.

<https://www.fema.gov/about/offices/information-technology/section-508>

2. Please provide the internet address on the agency’s public website for its notice explaining employees’ and applicants’ rights under the Architectural Barriers Act, including a description of how to file a complaint.

<https://www.fema.gov/about/offices/equal-rights/accessibility>

3. Describe any programs, policies, or practices that the agency has undertaken, or plans on undertaking over the next fiscal year, designed to improve accessibility of agency facilities and/or technology.

FEMA will continue to refine the process to providing accommodations in the field environment for both employees and reservists by streamlining the process with advance provision of reasonable accommodation requests. FEMA will undertake a survey of the workforce to ensure an accurate representation of PWD within its workforce.

C. REASONABLE ACCOMMODATION PROGRAM

Pursuant to 29 C.F.R. § 1614.203(d)(3), agencies must adopt, post on their public website, and make available to all job applicants and employees, reasonable accommodation procedures.

1. Please provide the average time frame for processing initial requests for reasonable accommodations during the reporting period. (Please do not include previously approved requests with repetitive accommodations, such as interpreting services.)

During FY22, reasonable accommodation requests were processed in an average timeframe of 72 days.

2. Describe the effectiveness of the policies, procedures, or practices to implement the agency's reasonable accommodation program. Some examples of an effective program include timely processing requests, timely providing approved accommodations, conducting training for managers and supervisors, and monitoring accommodation requests for trends.

Updated policy implemented in January 2022 with significant procedural modifications and guidance. Over 600 managers, supervisors and employees trained through multiple venues.

D. PERSONAL ASSISTANCE SERVICES ALLOWING EMPLOYEES TO PARTICIPATE IN THE WORKPLACE

Pursuant to 29 CFR §1614.203(d)(5), federal agencies, as an aspect of affirmative action, are required to provide personal assistance services (PAS) to employees who need them because of a targeted disability, unless doing so would impose an undue hardship on the agency.

Describe the effectiveness of the policies, procedures, or practices to implement the PAS requirement. Some examples of an effective program include timely processing requests for PAS, timely providing approved services, conducting training for managers and supervisors, and monitoring PAS requests for trends.

There were three PAS requests that were fulfilled in 1-10 days, as the employee's provided their own personal care attendants.

Section VII: EEO Complaint and Findings Data

A. EEO COMPLAINT DATA INVOLVING HARASSMENT

1. During the last fiscal year, did a higher percentage of PWD file a formal EEO complaint alleging harassment, as compared to the governmentwide average?

Answer No

2. During the last fiscal year, did any complaints alleging harassment based on disability status result in a finding of discrimination or a settlement agreement?

Answer No

3. If the agency had one or more findings of discrimination alleging harassment based on disability status during the last fiscal year, please describe the corrective measures taken by the agency.

B. EEO COMPLAINT DATA INVOLVING REASONABLE ACCOMMODATION

1. During the last fiscal year, did a higher percentage of PWD file a formal EEO complaint alleging failure to provide a reasonable accommodation, as compared to the government-wide average?

Answer No

2. During the last fiscal year, did any complaints alleging failure to provide reasonable accommodation result in a finding of discrimination or a settlement agreement?

Answer No

3. If the agency had one or more findings of discrimination involving the failure to provide a reasonable accommodation during the last fiscal year, please describe the corrective measures taken by the agency.

Section VIII: Identification and Removal of Barriers

Element D of MD-715 requires agencies to conduct a barrier analysis when a trigger suggests that a policy, procedure, or practice may be impeding the employment opportunities of a protected EEO group.

1. Has the agency identified any barriers (policies, procedures, and/or practices) that affect employment opportunities for PWD and/or PWTD?

Answer No

2. Has the agency established a plan to correct the barrier(s) involving PWD and/or PWTD?

Answer No

3. Identify each trigger and plan to remove the barrier(s), including the identified barrier(s), objective(s), responsible official(s), planned activities, and, where applicable, accomplishments

4. Please explain the factor(s) that prevented the agency from timely completing any of the planned activities.

N/A

5. For the planned activities that were completed, please describe the actual impact of those activities toward eliminating the barrier(s).

N/A

6. If the planned activities did not correct the trigger(s) and/or barrier(s), please describe how the agency intends to improve the plan for the next fiscal year.

N/A



FEDERAL EMERGENCY MANAGEMENT AGENCY

	Date	Number	
MANUAL	December 3, 2002	1430.1 Chg. 1	ER

Reasonable Accommodation for the Federal Emergency Management Agency

Foreword

- 1. Purpose.** This transmits changes to FEMA Manual 1430.1, "Reasonable Accommodation for the Federal Emergency Management Agency" (FEMA), dated August 22, 2001. Requests for reasonable accommodations will be processed by FEMA, and where appropriate, provided in a prompt, fair and efficient manner.
- 2. Action Required.** Holders of FEMA Manual 1430.1, shall file this transmittal sheet in front of the Manual for reference purposes.
- 3. Change Lines.** A vertical line in the right or left margins immediately opposite the new or revised material indicates new or revised material appearing on the change page.

Insert

New Table of Contents

Pages 1-1, 1-2, and 1-3

Pages 2-1

Page 3-1

Page 4-3

Page 5-1, 5-2 and 5-3

Pages 8-1 and 8-2

Remove

Old Table of Contents

Page 1-1 and 1-2

Page 2-1 and 2-2

Page 3-1

Page 4-3

Page 5-1 and 5-2

Pages 8-1 and 8-2

/s/

Joe M. Allbaugh
Director

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Appendix B - FEMA Form 14-13A, "Reasonable Accommodation Information Reporting Form"

Appendix C - Department of Defense (DOD) – CAP (Computer Accommodation Program) Accommodation Request Form

Chapter 1

General Information

1-1. Purpose. This manual establishes the policy and procedures for the Federal Emergency Management Agency (FEMA) on reasonable accommodation.

1-2. Applicability and Scope. The provisions of this manual are applicable to permanent full-time and part-time employees, Cadre On-Call Response (CORE) employees, Disaster Assistance Employees (DAEs), disaster local hires and applicants for any of these positions at FEMA.

1-3. Policy. FEMA's policy is to fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973. Under the law, Federal agencies must provide reasonable accommodations to qualified individuals with disabilities, except in cases where this would cause undue hardship. (See Section 1-8 for definitions of "Qualified Individual With a Disability" and "Undue Hardship.")

1-4. Procedures. Requests for reasonable accommodation can be made as follows:

a. An employee may request a reasonable accommodation orally or in writing from his/her immediate supervisor or the Disability Program Manager. Any request must be documented on Form 14-13, "Request for Reasonable Accommodation" (Appendix A).

b. An applicant for employment may request a reasonable accommodation orally or in writing from any FEMA employee with whom s/he has contact in connection with the application process. Such employee must forward the request to the appropriate decision maker (as delineated in Section 1-7) as soon as possible. An applicant for employment may also request reasonable accommodation from the Disability Program Manager in the Office of Equal Rights. An oral request must be documented on Form 14-13, "Request for Reasonable Accommodation" (Appendix A).

c. A family member, health professional, or other representative may request an accommodation on behalf of a FEMA employee or applicant. The request should go to one of the same persons to whom the employee or applicant would make the request.

1-5. Authority. Section 501 of the Rehabilitation Act of 1973. Under this law, Federal agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, except in cases where this would cause undue hardship to the Agency.

1-6. References. Title 29, Code of Federal Regulations (CFR) Part 1614.

1-7. Responsibilities. The FEMA staff member who first receives the request from an employee must forward it to the individual's first line supervisor who will be the decision maker. The FEMA staff member who first receives the request from an applicant for employment at FEMA Headquarters, one of the regions, or for a CORE or DAE position must forward it to the Deputy Director, Human Resources Division who will be the decision maker. The FEMA staff member who first receives the request from an applicant for employment as a local hire in a disaster must forward it to the FCO or his/her designee who will be the decision maker in conjunction with the Equal Rights Officer servicing that disaster.

1-8. Definition of Key Terms.

a. 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 have employment opportunities equal to those of an individual without a disability. Reasonable accommodations may include:

- (1) Making existing facilities accessible;
- (2) Part-time or modified work schedules;
- (3) Acquiring or modifying equipment; and
- (4) Providing qualified readers or interpreters.

b. Disability: A physical or mental impairment that substantially limits a major life activity (i.e., caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working).

c. Qualified Individual with a Disability: An individual with a disability is qualified if: (1) he/she satisfies the requisite skill, experience, education, and other job-related requirements of the position; and, (2) he/she can perform the essential functions of the position, with or without reasonable accommodation.

d. Essential Functions: Those job duties that are so fundamental to the position that the individual holds or desires that he/she cannot do the job without performing them. 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 specialized and the individual is hired based on his/her 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.

e. Undue Hardship: FEMA must provide reasonable accommodation for a disability unless it would cause significant difficulty or expense. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the agency.

1-9. Forms Prescribed. This manual prescribes the use of the following forms:

FEMA Form 14-13, "Request for Reasonable Accommodation" (Note: the reverse of this form is "Management Response to Request for Reasonable Accommodation"); FEMA Form 14-13A, "Reasonable Accommodation Information Reporting Form." These FEMA forms, may be obtained through the Agency's Printing, Publications and Graphics Arts Branch, Program Services and Systems Branch, Administration and Resource Planning Directorate or by accessing the FEMA electronic forms website at <http://DocNet.fema.gov>. This manual also prescribes the use of the Department of Defense (CAP) form, which may be obtained from the Office of Equal Rights.

Chapter 2

Requests For Reasonable Accommodation

2-1. Reasonable Accommodations.

a. A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, in the application for employment, 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.

b. An individual with a disability may request a reasonable accommodation whenever he/she chooses, even if he/she has not previously disclosed the existence of a disability. However, the individual must make the manager aware that he/she has a disability at the time of the request. Special words, such as “*reasonable accommodation*,” “*disability*,” or “*Rehabilitation Act*” do not necessarily have to be used in making the request.

c. For specific procedures, (See 1-4).

2-2. Written Requests.

a. To enable FEMA to keep accurate records regarding requests for accommodation, employees and applicants for employment seeking a reasonable accommodation should follow up an oral request by completing the attached “Request For Reasonable Accommodation” form (Appendix A) and providing it to the decision maker.

b. The “Request for Reasonable Accommodations” form should be filled out as soon as possible following an oral request, but it is not a requirement for processing the request itself. FEMA will begin processing the request as soon as it is made, whether or not the form has been filled out. If an employee does not fill out the form, the decision maker on the request should do so.

c. The “Request for Reasonable Accommodations” form is not required to be filled out 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 appropriate notice by the employee must be given each time the accommodation is needed.

Chapter 3

Examples of Accommodations:

3-1. Computer and Electronic Assistive Devices. FEMA has an interagency agreement with the Department of Defense (DOD), to provide computer and electronic assistive devices to accommodate employees with disabilities. Examples of such accommodations include voice recognition/keyboards, telecommunication devices, training on assistive technology, screen readers/magnification, assistive listening devices, and captioning services. To request such an accommodation the employee must complete DOD's Computer Accommodations Program (CAP) form and have it approved by his/her supervisor and coordinated with the Disability Program Manager in the Office of Equal Rights.

3-2. Reader or Sign Language Interpreter. When an employee has a recurring, predictable need for accommodation, such as a reader or sign language interpreter, FEMA may be obligated to provide it, whether or not the employee has requested it. When an employee does make such a request, it can be handled by the employee's immediate supervisor. Readers and sign language interpreters may not always be immediately available. Therefore, supervisors should plan activities requiring such services in advance to ensure their availability. The Deputy Director, Human Resources Division will handle requests from applicants for employment at Headquarters, the regions, and for applicants for employment as CORE and DAE employees. The FCO or his/her designee(s) in conjunction with the Equal Rights Officer at disaster sites will handle requests from applicants for employment for positions as local hires. The Disability Program Manager in the Office of Equal Rights is available to provide technical assistance and information regarding resources for sign language interpreters.

3-3. Accessible Parking and Materials In Alternative Formats. Requests from employees for accessible parking and materials in alternative formats can be handled by the employee's immediate supervisor or the Disability Program Manager. The Deputy Director, Human Resources Division will handle requests from applicants for employment at Headquarters, the regions, and for applicants for employment as CORE and DAE employees. The FCO or his/her designee(s) in conjunction with the Equal Rights Officers at disaster sites will handle requests from applicants for employment for positions as local hires.

3-4. Telework. Telework is available only to permanent full-time, permanent part-time and CORE employees. Requests for telework as a reasonable accommodation for a disability must be made in accordance with the procedures outlined in the FEMA Manual "Program Guidance for Flexible Workplace Environment" (FEMA Manual 3000.3/July 2000). Such requests must include sufficient medical documentation to substantiate the need for telework. When submitting the "Telework Application Form" to the supervisor, the box for "medical" must be checked under "Application Type."

Chapter 4

Interactive Process

4-1. Interactive Process. The parties need to discuss the issue to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation and the FEMA decision maker 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 FEMA decision maker will have the principal responsibility for identifying possible accommodations. He/she 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. The Disability Program Manager is also available to provide assistance.

a. The FEMA decision maker will: (1) explain to the applicant or employee that he/she will be making the decision on the request; and, (2) describe what will happen in the processing of the request. This initial discussion should happen as soon as possible.

b. 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 decision maker and requesting individual should talk to each other to make sure that there is a full exchange of relevant information.

c. The decision maker or any other FEMA official who receives information in connection with a request for reasonable accommodation must keep the information confidential. He/she 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 a determination on a reasonable accommodation request.

d. There are specific considerations in the interactive process when responding to a request for reassignment.

(1) Reassignment is a form of reasonable accommodation that must be provided to an employee, who, because of a disability, can no longer perform the essential functions of the position he/she holds, with or without reasonable accommodation. Reassignment is a “last resort” accommodation that must be considered if there are no effective accommodations that would enable the employee to perform the essential functions of his/her current job, or if all other possible accommodations would impose undue hardship on the Agency.

(2) Reassignment is available only to employees, not to applicants. In addition, reassignment may be made only to a vacant position. The law does not require that agencies create new positions or move employees from their jobs in order to create a vacancy.

(3) In considering whether there are positions available for reassignment, the Disability Program Manager will work with the Human Resources Division, the offices identifying the vacancies, and the individual requesting the accommodation to identify: (1) vacant positions within the agency for which the employee may be qualified, with or without reasonable accommodation; and, (2) positions which the Human Resources Division has reason to believe will become vacant over the next 60 business 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, FEMA will consider vacant lower level positions for which the individual is qualified.

(4) 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, FEMA will not pay for the employee's relocation costs.

4-2. Requests for Medical Information. FEMA is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation. In some cases the disability and need for accommodation will be obvious or otherwise already known to the decision maker. In these cases, FEMA will not seek any further medical information. However, when a disability and/or need for reasonable accommodation is not obvious or otherwise already known to the decision maker, FEMA may require that the individual provide documentation about the disability and his or her functional limitations. A request for medical documentation may be made to the individual and/or the individual may be asked to obtain information from an appropriate professional, such as a doctor, social worker, or rehabilitation counselor. The information may include:

- a. The nature, severity, and duration of the individual's impairment;
- b. The activity or activities that the impairment limits;
- c. The extent to which the impairment limits the individual's ability to perform the activity or activities; and/or,
- d. Why the individual requires the particular reasonable accommodation requested, as well as how the accommodation will assist the individual in applying for a job, performing the essential functions of the job, or, enjoying a benefit of the workplace.

(1) If a decision maker believes that medical information is necessary in order to evaluate a request for reasonable accommodation, he/she should coordinate such request with the Disability Program Manager in the Office of Equal Rights prior to requesting such information.

(2) When medical documentation is submitted to the decision maker, he/she must provide all such documentation to the Disability Program Manager at the conclusion of the process for record keeping purposes.

e. In order to get the most helpful information possible, all requests for medical documentation should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.

f. The individual requesting the accommodation will be asked to sign a limited release of medical information specific to the accommodation requested.

g. If the information provided by the health professional, or by the individual requesting the accommodation, is insufficient to determine whether an accommodation is appropriate, the decision maker may ask for further information.

(1) However, he/she will explain to the individual seeking the accommodation, in specific terms, why the information provided is insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request.

(2) The individual may then ask the health care, or other appropriate medical professional to provide the missing information. FEMA may submit a list of specific questions for this purpose.

(3) 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 decision maker, in consultation with the Disability Program Manager, may request that the individual be examined by a physician chosen by FEMA, at FEMA's expense.

h. In some cases, the individual requesting the accommodation will supply medical information directly to the decision maker without being asked. In these cases, the decision maker will consider such documentation and if additional information is needed, the decision maker will follow the process as set forth in this section. The failure to provide appropriate documentation or to cooperate in the Agency's efforts to obtain such documentation can result in a denial of the reasonable accommodation.

i. Any exceptions to this process will be handled on a case-by-case basis.

4-3. Confidentiality Requirements. All requests for reasonable accommodation must be kept confidential. Under Section 501 of the Rehabilitation Act of 1973, medical information obtained by FEMA in connection with the reasonable accommodation process must be kept confidential. This includes medical information about functional limitations and reasonable accommodation needs. Requests for reasonable accommodation must also be kept in files separate from the individual's personnel file. Any FEMA employee who obtains or receives such information is strictly bound by these confidentiality requirements.

a. The Disability Program Manager 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, the requirements of 29 C.F.R. 1611 and this guidance document.

b. This information may be disclosed only as follows:

(1) Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the accommodation(s), but medical information should only be disclosed if strictly necessary;

(2) First aid and safety personnel may be informed, when appropriate, should the disabled employee require emergency treatment;

(3) Government officials may be given information necessary to investigate the Agency's compliance with the Rehabilitation Act; and,

(4) The information may, in certain circumstances, be disclosed to workers' compensation offices or insurance carriers.

c. Whenever medical information is disclosed, the recipient of the information must be informed of the confidentiality requirements.

Chapter 5

Time Frames

5-1. Processing Requests. FEMA will process requests for reasonable accommodation and provide accommodations, where they are appropriate, in as short a time frame as reasonably possible. FEMA 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. Time frames for processing requests and providing reasonable accommodation where no supporting information is required are as follows:

a. Requests from applicants for employment should be expedited when necessary to ensure the applicant's ability to compete for the position. However, these requests should not exceed ten (10) business days.

b. If a request from an employee is processed by the supervisor, the request should be processed, and the accommodation, if granted, provided within 15 business days from the date of receipt of the request. Requests for accommodation should be expedited when the accommodation is needed to enable the employee to participate in an Agency activity scheduled to occur in the near future.

(1) If the decision maker believes that it is necessary to obtain medical information to determine whether the requesting individual has a disability and/or to identify the functional limitations, the decision maker will request the information as soon as possible after his or her receipt of the request for accommodation. FEMA recognizes that the need for documentation may not become apparent until after the interactive process has begun.

(2) In cases where medical documentation is needed, the accommodation, if granted, will be provided within ten (10) business days for an applicant, and within 15 business days for an employee, from the date the decision maker receives the relevant information, absent any extenuating circumstances.

c. Where the Disability Program Manager is the decision maker on a request for reasonable accommodation, he/she will make a decision on the request and the accommodation, if granted, will be provided within 15 business days from the date of the request. If medical documentation is necessary, the decision will be made within 15 business days of receipt of the medical information, absent any extenuating circumstances.

5-2. 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 on a case-by-case basis. Such extensions may be

granted by the second level supervisor, in the case of a request from an employee, and the Disability Program Manager, in the case of a request from an applicant. It is FEMA's policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. FEMA staff is expected to act as quickly as possible in processing and providing accommodations. The following are examples of extenuating circumstances:

- a.** There is an outstanding initial or follow-up request for medical information, or the medical information is being evaluated.
 - b.** The purchase of equipment may take longer than 15 business days because of requirements under the Federal Acquisition Regulation and the processing of requests through the DOD CAP program. Requests for computer and electronic equipment through the DOD CAP program are likely to take an additional 15-20 days.
 - c.** Equipment is back-ordered, the vendor typically used by FEMA 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.
 - d.** The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before FEMA buys it.
 - e.** New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.
 - f.** "Extenuating circumstances" covers limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. For example, FEMA may not delay processing or providing an accommodation because a particular staff member is unavailable.
- (1)** Where extenuating circumstances are present, the decision maker 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.
- a.** If there is a delay in providing an accommodation that has been approved, the decision maker 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 decision maker 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 Agency; and, (2) the employee is clearly informed that they are being provided only on a temporary, interim basis.

(2) If a delay is attributed to the need to obtain or evaluate medical documentation and FEMA has not yet determined that the individual is entitled to an accommodation, FEMA may provide accommodation on a temporary basis. In this case, the decision maker will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the request.

(3) FEMA decision makers who approve temporary measures are responsible for assuring that they do not take the place of a permanent accommodation and that all necessary steps are being taken to secure a permanent accommodation.

Chapter 6

Granting a Reasonable Accommodation Request

6-1. Granting a Request. As soon as the decision maker determines that a reasonable accommodation will be provided, the decision should be immediately communicated to the individual. If the accommodation cannot be provided immediately, the decision maker must inform the individual of the projected time frame for providing the accommodation. This notice does not need to be in writing.

6-2. Denial of a Request. In the case of a denial of a request for reasonable accommodation, the decision maker must fill out the “Management Response to Request For Reasonable Accommodation” form on the back of the “Request for Reasonable Accommodation” form (Appendix A) and provide a copy to the individual requesting the accommodation. The denial should clearly state the specific reasons for the denial. Where the decision maker has denied a specific requested accommodation, but offered an alternative accommodation not previously discussed, the denial notice should explain both the reasons for the denial and the reasons that the decision maker believes that the chosen accommodation will be effective. Denial of a request for reasonable accommodation may include the following:

- a.** The requested accommodation and the reasons the accommodation would not be effective and why.
- b.** The reason the requested accommodation would result in undue hardship to the agency. Before reaching this determination, the decision maker must have explored whether other effective accommodations exist which would not impose undue hardship and therefore can be provided. A determination of undue hardship means that FEMA finds that a specific accommodation would result in significant difficulty or expense, or would fundamentally alter the nature of FEMA’s operations.
- c.** Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
- d.** The requested accommodation would require the removal of an essential job function.
- e.** The requested accommodation would require the lowering of a performance or production standard. (The decision maker must understand that temporary adjustments, including lowering performance or production standards, are allowed during the normal course of business, if circumstances warrant it. For instance, a supervisor may, if an employee is temporarily but seriously ill, temporarily lower a performance or production standard to accommodate the employee.)

Keep in mind that the actual notice to the individual must include specific reasons for the denial, for example, why the accommodation would not be effective or why it would result in undue hardship.

The written notice of denial informs the individual that he/she has the right to file an Equal Employment Opportunity (EEO) complaint, and may have the right to pursue Merit Systems Protection Board (MSPB) and union grievance procedures. The notice also explains FEMA's procedures for informal dispute resolution.

6-3. Dispute Resolution. Individuals with disabilities can request prompt reconsideration of a denial of reasonable accommodation.

a. If an employee is denied his/her request for reasonable accommodation, he/she may appeal directly to his/her second level supervisor. The employee may present additional information in support of his/her request. The second level supervisor will respond to this request within ten (10) business days.

b. If an applicant is denied his/her request for reasonable accommodation, he/she may appeal directly to the Disability Program Manager in the Office of Equal Rights. The applicant may present additional information in support of his/her request. The Disability Program Manager will respond to this request within ten (10) business days.

c. In an effort to resolve issues or concerns, employees or applicants can request to participate in the Alternative Dispute Resolution Program.

The pursuit of any of the informal dispute resolution procedures identified above does not affect the time limits for initiating statutory and collective bargaining 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, MSPB, or union grievance procedures.

Chapter 7

Claims

7-1. 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:

- a.** For an EEO complaint, contact an EEO counselor within 45 days from the date of receipt of the written notice of denial;
- b.** For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement; or,
- c.** Initiate an appeal to the Merit Systems Protection Board within 30 days of an appealable adverse action as defined in 5 C.F.R. 1201.3.

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

Chapter 8

Assistance Information

8-1. Tracking and Reporting. FEMA is required to identify the following information regarding requests for reasonable accommodation:

- a. The number and types of reasonable accommodation that have been requested for each job (occupational series, grade level), by agency component;
- b. Whether those requests have been granted or denied;
- c. How many of those requests relate to the benefits or privileges of employment;
- d. The reasons for denial of requests for reasonable accommodation;
- e. The amount of time taken to process each request for reasonable accommodation; and,
- f. The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.
- g. The Disability Program Manager will retain for at least three (3) years information or any cumulative records used to track FEMA's performance with regard to reasonable accommodation.

In accordance with the information tracking requirements, the decision maker must complete the attached "Reasonable Accommodations Information Reporting Form" and submit it to the Disability Program Manager within ten (10) business days of the decision. The decision maker should attach copies of all information, including medical documentation he/she received as part of processing the request.

The Disability Program Manager will maintain records related to an employee's request for accommodation for the duration of the employee's tenure.

8-2. Inquiries. Any person wanting further information concerning these procedures may contact the Disability Program Manager in the Office of Equal Rights.

8-3. Distribution. These procedures will be distributed to all employees upon issuance. They also will be posted on FEMA's intranet and internet sites. Copies also will be available in the Office of Equal Rights and the Human Resources Division.

8-4. Resource Assistance.

- a. Listed below are resources to assist in providing reasonable accommodations:

(1) Office of Equal Rights, FEMA

202-646-3535 (Voice); 202-646-2745 (TT)

(2) U.S. Equal Employment Opportunity Commission

1-800-669-3362 (Voice); 1-800-800-3302 (TT)

<http://www.eeoc.gov>.

EEOC Enforcement Guidance: Disability-Related Inquiries and Medical
Examinations of Employees Under the Americans With Disabilities Act;

EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship
Under the Americans With Disabilities Act.

(3) Job Accommodation Network (JAN)

1-800-232-9675 (Voice/TT)

<http://janweb.icdi.wvu.edu/>.

(4) ADA Disability and Business Technical Assistance Centers (DBTACs)

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

(5) Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TT)

<http://www.rid.org>

(6) RESNA Technical Assistance Project

(703) 524-6686 (Voice) (703) 524-6639 (TT)

<http://www.resna.org/>

(7) Computer/Electronic Accommodations Program (CAP)

703-681-8813 (Voice/TT)

www.tricare.osd.mil/cap

FEMA DIRECTIVE: Personnel Standards of Conduct

FEMA Directive 123-0-2-1

BACKGROUND

This Directive applies to all Federal Emergency Management Agency (FEMA) employees (referred to as “FEMA employees”), those detailed or otherwise assigned to FEMA from other Components within the Department of Homeland Security (DHS), other Federal agencies, or under the Intergovernmental Personnel Act (IPA), collectively referred to herein as “personnel.” This Directive does not supersede any directives or instructions.

PURPOSE

This directive sets forth FEMA’s policy for the general standards of conduct and ensures all personnel covered by this Directive are guided by the principles established in [FEMA Policy 112-01, Publication 1, \(We are FEMA\)](#). This Directive promotes professionalism and conforms to established ethical principles. Absence of a specific standard of conduct herein does not mean that unspecified behavior is permissible or that no corrective action will be taken from unspecified conduct. All personnel should review the Authorities and References listed in the Additional Information section of this Directive and refer to the FEMA Active Policy Inventory for other policies, directives, and instructions that may directly or indirectly relate to Federal employee conduct and ethics.

PRINCIPLES

- A. FEMA’s Core Values of Compassion, Fairness, Integrity, and Respect guide the actions and behavior of its employees.
- B. Public service is a public trust. Maintaining strong standards of behavior and ethical conduct also maintains public trust and confidence in FEMA and its workforce.

REQUIREMENTS

A. GENERAL CONDUCT

Outcome: All personnel will carry out their duties in a professional, respectful, and ethical manner, and will abide by this Directive and all FEMA and DHS policies and procedures, as well as, all applicable laws and regulations pertaining to federal employee conduct. All FEMA employees are subject to appropriate disciplinary action for misconduct when it is determined the employee violated any law, regulation, or policy for DHS or FEMA. (See Appendix A for Responsibilities of FEMA employees.) Non-FEMA employees may be disciplined subject to the policies set forth by their employing organization. Non-FEMA employees under an IPA must comply with the IPA agreement to the extent it is applicable regarding the obligations and responsibilities of FEMA, the participating organization, and the employee during the assignment period.

1. Communication. All personnel will be professional in their communications (verbal, non-verbal, and written), contact with supervisors, subordinates, co-workers, other FEMA employees, affiliates, and members of the public. "Professional" for the purposes of this directive means being polite, respectful, helpful, considerate, and patient.
2. Job Performance. All personnel shall be disciplined and meet all performance obligations in the performance of their duties to the government and the public while following FEMA policies and procedures.
3. Dress and Attire. All personnel must be dressed appropriately to present a professional and positive image that incorporates regional and cultural tolerance to the public and/or colleagues while on duty. This requirement is not limited to the traditional workplace and extends to telework, remote, and virtual environments. Supervisors have the authority to decide if a person's attire is inappropriate. After consulting with FEMA's Office of Chief Component Human Capital Officer (OCCHCO) and Labor Employee Relations (LER), the Supervisor may send FEMA employees home and require that they take leave, pursuant to the [FEMA Manual 123-10-1 Absence and Leave](#), until they comply. For all other personnel, they may be sent home as well, and their sponsoring agency notified.
 - a. Examples of inappropriate dress include, but are not limited to:
 - i. shorts;
 - ii. flip flops;
 - iii. clothing that shows offensive images or texts;
 - iv. clothing that exposes one's midsection; and
 - v. clothing that is ripped.
 - b. For classroom activities, appropriate casual business attire may be worn. Examples of appropriate business attire include, but are not limited to:
 - i. slacks;
 - ii. khakis;
 - iii. suits;
 - iv. sport coats
 - v. blazers;
 - vi. skirts/dresses;
 - vii. shirts with collars;
 - viii. capri pants;
 - ix. sweaters; and
 - x. dress or casual shoes.

Additional guidance regarding the use of FEMA distinctive clothing is addressed in [FEMA Directive 123-18 Standard FEMA-Distinctive Clothing](#).

4. Badge, Credentials, and Official Identification. Personnel will not use any FEMA identification, or other form of identification associated with their employment, in a manner which may reasonably give the perception that they are using the identification for personal benefit, attempting to exert undue influence, or to obtain,

directly or indirectly, a favor, reward, or preferential treatment for themselves or others, or to improperly enhance their own image. All personnel are prohibited from cloning, scanning, photocopying, or modifying their FEMA badge, credential, or official identification. See [FEMA Directive 121-1 Personal Identification Standard](#) and [FEMA Instruction 121-3-1 Credential and Access Reference Instruction](#).

5. False Statements. All personnel must be truthful and fully forthcoming in all official matters and duties, and will not knowingly make false, misleading, incomplete, or ambiguous statements, whether written, verbal or non-verbal.
6. Workplace Environment. FEMA requires a safe, inclusive, productive, professional, and respectful workplace that is free of harassment (sexual or non-sexual), discrimination, retaliation, and violence. See [DHS MD 256-01 Anti-Harassment Program](#).
 - a. Workplace. Workplace is defined as the location where the employee regularly performs their duties. This includes but is not limited to the traditional worksite and extends to all telework, remote, and virtual environments.
 - b. Harassment. FEMA promotes a workplace environment free of all forms of harassment wherever FEMA employees work, including any form of harassment that does not rise to the level that violates the law. FEMA prohibits any unwelcome verbal or physical act conducted based on one of the Equal Employment Opportunity (EEO) protected biases to include race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (over 40), disability, and genetic information. Retaliation/reprisal for EEO activity that is so objectively offensive as to alter the conditions of one's employment where the conduct culminates in a tangible employment action or is sufficiently severe and/or pervasive as to create a hostile work environment is also prohibited. FEMA takes every allegation of harassment seriously, strongly encourages the reporting of suspected harassment, investigates every allegation of harassment promptly and fairly, and will impose appropriate discipline on any FEMA employees found to have engaged in harassment, regardless of rank or position, up to and including termination from employment.
 - i. In accordance with the [DHS Instruction 256-01-001, Anti-Harassment Program](#), FEMA prohibits harassing conduct having a direct nexus to the individual's position or responsibilities, which occurs on duty, off duty, face-to-face, or remotely via electronic/digital means, including, but not limited to telephone, email, social media, websites and chat applications. Such conduct is prohibited regardless of whether it occurs during working hours or on DHS property.
 - c. Violence. FEMA does not tolerate workplace violence including physical assaults, physical contact, intimidation, threats (verbal, written, or visual) or other disruptive behavior or language or work-place related incidents of domestic violence, sexual assault, and stalking. See [DHS MD 256-03 Workplace Violence](#).
 - d. Discrimination. FEMA does not tolerate discrimination by anyone based on an individual's race, color, sex (including pregnancy, gender identity, sexual orientation), religion, national origin, age, disability, genetic information, or previous EEO activity. See [FEMA Directive 112-14 Equal Opportunity and Affirmative Employment](#). Furthermore, it is FEMA's policy to ensure the civil rights of all persons receiving services or benefits from Agency programs and activities are protected. All

personnel working to support disaster or emergency assistance functions shall perform their work in an equitable and impartial manner without discrimination. See [FEMA Directive 112-11, Title VI Civil Rights Program](#). No personnel shall discriminate against other employees based on union membership or union activities.

7. Fraternization. It is prohibited for any person to form, maintain, solicit, or attempt to form an intimate relationship with a covered individual (see A.7.b.ii) if the person works on matters in their official capacity that affect or involve the covered individual, or if the person represents to the covered individual that they have the ability to influence such a matter in their official capacity that affects or involves the covered individual.
 - a. Applicability. This prohibition applies equally to all personnel covered by this Directive, regardless of position, grade, or status, whether at headquarters, a regional office, fixed facility, or a deployed location.
 - b. Variances. The FEMA Office of Chief Counsel (OCC) Ethics Counselor, in coordination with the employee's supervisor, may provide written guidance authorizing variances to the standards in this paragraph, consistent with the Standards of Ethical Conduct for Employees of the Executive Branch, or measures (such as a transfer to new duties or a screening agreement) to safeguard against potential conflicts of interest.
 - i. An "intimate relationship" includes marriage; engagement; dating; engaging in acts, communications, or relationships of a romantic or sexual nature; and the sharing of living or sleeping accommodations other than for authorized temporary duty (TDY) lodging, regardless of who initiates the intimate relationship.
 - ii. A "covered individual" includes a supervisor, a subordinate, a FEMA Corps member, an applicant for or recipient of FEMA Individual or Public Assistance, a person who is seeking employment with FEMA, a current or prospective FEMA contractor or grantee, or any other person with whom an intimate relationship would give an appearance of impropriety.
 - iii. A "supervisor" is a person who has the authority to approve or disapprove, or make a recommendation concerning another subordinate person's performance evaluations, awards, assignments of work, discipline, term renewal, promotion, deployment, mobilization, demobilization, or other conditions of employment. The supervisor-subordinate relationship remains notwithstanding how many other personnel are between the two personnel in the chain of supervision, whether the supervisor provides direct, day-to-day supervision over the subordinate's work or is a temporary or permanent.
8. Safety. All personnel will observe and employ safe practices in accordance with all applicable regulations and guidance, including those developed in response to unforeseen developments such as pandemic responses, in the performance of their duties. Employees will promptly report to their supervisors any injury, accident, or illness that occurs in connection with the performance of their official duties by the most expeditious means available.
9. Nepotism. Personnel will not appoint, employ, promote, advance, or advocate for

appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which they are serving or over which they exercise jurisdiction or control an individual who is a relative, as prohibited by 5 U.S.C. § 3110 and under “prohibited personnel practices” in 5 U.S.C. § 2302(b)(7).

10. Preferential Treatment. FEMA employees must act impartially and not give preferential treatment to any private organization or individual, per 5 C.F.R. § 2635.101. For the intent of this Directive, preferential treatment is defined as giving an unfair advantage, that is not based on merit, to one person or group at the expense of another, also known as favoritism or cronyism. FEMA prohibits providing any unfair advantage to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity. Preferential treatment can occur in a variety of contexts. Examples of improper preferential treatment in the hiring process include but are not limited to the following:
 - a. FEMA employees must not disclose non-public information or otherwise use their public office for private gain or to provide an unfair advantage to an applicant for FEMA employment. See 5 C.F.R. §§ 2635.702 and 2635.703.
 - b. FEMA employees must avoid the appearance of loss of impartiality when they participate as the selection official (including serving as a panel member) for a vacancy or for the award of grants or contracts. Employees must not direct or attempt to influence a selection process, selection official, or panel member. Any employee whose duties require them to participate in any selection for a job, grant, or contract will immediately notify their supervisor if the applicant is a relative with whom they have a close personal relationship or friend with whom they have a close personal relationship. In such cases, the supervisor must consult with an Ethics Counselor to determine whether the employee must recuse themselves from participation and must provide written documentation to OCCHCO for inclusion in the hiring file. There are other relationships the employee may have with an applicant that may require consultation with an Ethics Counselor. See 5 C.F.R. § 2635.502.

B. OTHER ACTIVITIES AND CONDUCT

Outcome: All personnel will observe rules and guidelines regarding specially identified activities and conduct.

1. Conduct: Personnel shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government. Notoriously disgraceful conduct is any conduct that would embarrass or discredit the employee, FEMA, or the Federal Government. All personnel shall conduct themselves in a professional manner on and off duty.
2. Substance Abuse.
 - a. Personnel will not report for duty or remain on duty under the influence of alcohol, prescription (including medication) or illegal drugs (including cannabis and cannabidiol (CBD)) that impair or impede with the employee’s ability to fulfill their performance of duties. See [FEMA Manual 123-20-1 Drug-Free Workplace Program](#).
 - b. Personnel may not purchase, possess, sell, distribute, or consume alcohol or

illegal drugs (including cannabis and CBD) while on official duty. Any off duty use of a controlled substance, or other substance in violation of federal law or regulation (including cannabis) is prohibited. An exemption for the appropriate official use of alcoholic beverages may be obtained in accordance with 41 C.F.R. § 102-74.405.

- i. Cannabis is a controlled substance under federal law, notwithstanding its legalization for medical or recreational use in some U.S. states or territories. As such, any use of cannabis or any other controlled substance, whether on-duty or off-duty, may result in the suspension or revocation of an employee's security clearance, and/or disciplinary action.
 - c. Under no circumstances will personnel operate Government-Owned, Government Furnished, or Government Leased vehicles or machinery while under the influence of alcohol or drugs, including cannabis and CBD. Alcoholic beverages may not be transported in a Government owned, furnished, or leased vehicle or machinery.
 - d. If any personnel require additional mental health resources or assistance, they have the option of contacting the Federal Government's Employee Assistance Program (EAP) at www.FOH4you.com.
3. Gambling. Personnel will not engage in any gambling activity while on or off duty at any government owned or leased premises, including gambling on the internet, conducting an office pool or fantasy sports league, or any game with financial stakes. Further, at no time will employees use any government furnished, owned or leased, equipment for any such activity. This includes but is not limited to the use of internet browsers on FEMA-issued mobile devices to access such gambling sites.
4. Smoking, Vaping, and Smokeless Tobacco. Smoking, vaping, and smokeless tobacco are only permitted in the designated areas. Smoking and vaping are prohibited in courtyards and within twenty-five (25) feet of doorways and air intake ducts on outdoor space under the jurisdiction, custody, or control of the federal government. Candles and incense are not permitted to be used in any FEMA buildings, facilities, or Government owned, leased, or furnished vehicles.
5. Firearms and Weaponry. Unless firearms and other FEMA-issued use of force weaponry are authorized and required in the performance of duty, personnel will not carry firearms, weapons, or other weaponry, either openly or concealed, while on official duty or on government-owned or leased property (including, but not limited to rental cars, hotel rooms, and/or other accommodations reimbursed by FEMA). Personnel will not transport firearms and weaponry in GOVs, unless authorized to do so. For all items prohibited on federal property, see [Interagency Security Committee \(ISC\) Standard Items Prohibited from Federal Facilities](#).
6. Off Duty Conduct. When off duty, personnel should not engage in criminal misconduct, harassment, or other personal behavior that reflects negatively on FEMA or could cause the loss of public trust and confidence with FEMA.
7. Social Media Use.

- a. FEMA personnel may not state or imply that they are communicating on behalf of FEMA, DHS, or the Federal Government while using social media for personal purposes, including:
 - i. Referring to FEMA, DHS, or the Federal Government in a social media account handle, name, or URL;
 - ii. Using FEMA or DHS logos in a profile photo, banner image, header image, or website background image;
 - iii. Establishing a public or private discussion board/group that appears to represent the views of FEMA, DHS, or the Federal Government.
 - b. Employees are prohibited from using social media in a matter that:
 - i. Is reasonably likely to disrupt FEMA's mission;
 - ii. Violates any law, rule, or regulation, including the Hatch Act and DHS or FEMA policies;
 - iii. Involves the release of nonpublic information or government protected information.
 - c. Employees are prohibited from using their government email account for their own personal use or to establish or operate social media accounts for personal use.
 - d. In addition, see [U.S. Office of Government Ethics \(OGE\) legal advisory LA-15-03, 2015, "Standards of Conduct as Applied to Personal Social Media Use."](#)
8. **Unlawful Activities and Arrests.** FEMA regards any violation of law as being inconsistent with and contrary to the Agency's core values. Therefore, personnel will not engage in any activities which violate local, state, and/or federal laws, which may result in their arrest or their receipt of a summons to appear in court on criminal charges. A custodial arrest, the payment of a bail or bond, a sentence to any term of confinement, or receipt of a summons to appear in court on criminal charges must be reported to the Office of Professional Responsibility (OPR) in accordance with [FEMA Directive 112-13, Office of Professional Responsibility](#), and their immediate supervisor or other management official within their chain of command as soon as reasonably possible. Minor traffic violations will be exempt to this rule.

C. GOVERNMENT PROPERTY AND INFORMATION

Outcome: All personnel are good stewards of Government property and information.

1. **Government Property.** All personnel must conserve, protect, and dispose of Government property in accordance with [FEMA Manual 119-7-1 Personal Property](#). In addition to disciplinary or adverse action, personnel may be responsible for paying for damage to, or loss of, Government property in their care.
 - a. Use of Government property and/or connection to FEMA network. All personnel may use Government computers, mobile phones, tablets, and office equipment for authorized purposes only. See [DHS MD 4900, Individual Use and Operation of DHS Information Systems/Computers](#).
 - b. Sexual, hateful, or offensive material. The use of Government computers, mobile phones, tablets, and office equipment to access, view, store, copy, purchase, or transmit nudity, sexually explicit, offensive, or hateful material is strictly prohibited.
 - c. Authorized Software. All personnel may only use FEMA authorized software, programs,

and applications on their Government computers, mobile phones, and tablets. Employees will adhere to security policies and procedures regarding the use and protection of their user identification and passwords.

- d. Authorized Equipment. Equipment that is not owned or leased by the Federal Government or operated by a contractor on behalf of the Federal Government, is not to be connected to FEMA equipment or networks without the written prior approval of the DHS Chief Information Security Officer (CISO). Personally owned equipment, devices and software are not to be used to process, access, or store sensitive information without the written prior approval of the FEMA CISO.
- e. Monitoring. All use of FEMA information systems by anyone (including FEMA, personnel, contractors, and others working on behalf of FEMA) is subject to monitoring or search at any time. Once a user's identity is verified through the system login process (authentication), the user acknowledges their consent to monitoring and acknowledges that they have no expectation of privacy for their use of or for information stored in such systems.

2. Government Travel.

- a. Fraudulent Claims. All personnel who travel on official business at Government expense are prohibited from knowingly submitting fraudulent travel claims for reimbursement. For all official travel policies and travel guidance, see the [FEMA 122-1-1 Travel Policy Manual](#). All personnel shall obtain approval from their supervisors or other appropriate official prior to using a Government owned, furnished, or leased vehicle.
- b. A supervisor or manager may not direct or arrange for a subordinate or a covered person (see A.7.b.iii) to perform official Government travel at Government expense for any improper purpose, whether in whole or in part, or without a legitimate and articulable need that is mission essential and in the best interest of the Government.
- c. All personnel shall adhere to motor vehicle management principles, laws, regulations, directives, and ensure compliance concerning the use of vehicles. See [Instruction 119-24-1 FEMA Fleet Management Program](#).

3. Government-Sponsored Charge Cards.

- a. Pursuant to [FEMA Manual 122-1-1 Travel Policy Manual](#) and federal travel regulations under 41 C.F.R. §301, Government-sponsored travel charge cards may only be used for payment of authorized official travel expenses. The FEMA travel charge card cannot be used for personal purposes. Only the person whose name appears on the charge card may use the charge card for their own official travel expenses. Anyone who holds a travel card must pay all valid charges appearing on the charge card statement in full when due. FEMA personnel must pay all undisputed travel charge card charges appearing on the charge card statement in full and on time. The failure of an employee to pay their travel charge card account in full and on time may result in disciplinary action.
- b. All personnel will safeguard Government-issued charge cards under their care, including travel cards, fleet cards, and purchase cards, and will promptly report the loss of any Government-issued cards to their supervisor, card program point of contact, and the card-issuing bank. Cardholders are responsible for using the charge card strictly in

accordance with both FEMA requirements and those of the financial institution issuing the card.

- c. FEMA personnel will only use Government-issued charge cards to pay for authorized goods and services for Government furnished or leased vehicles pursuant to [Instruction 119-24-1 FEMA Fleet Management Program](#).

4. Safeguarding and Disclosure of Official Information.

- a. Personnel shall not disclose, use, or store official information or nonpublic information without proper authority. Examples of official information include information that is protected from disclosure by statute, Executive Order, or regulation; proprietary business information; and information retrieved from FEMA automated systems. Official information also includes any information acquired in connection with FEMA employment, that the person knows, or reasonably should know, has not been made available to the general public.
- b. Personnel shall not access, conceal, alter, remove, mutilate, or destroy documents or data in the custody of FEMA or the Federal Government without proper authority. See [Directive 141-1 FEMA Records Management Program](#)
- c. All personnel must safeguard all official information against unauthorized access, disclosure, alteration, or loss.

D. ETHICAL CONDUCT

Outcome: All FEMA and other federal employees, including personnel covered by this Directive, must maintain especially high standards of honesty, impartiality, character, and conduct to ensure the proper performance of Government business and the continual trust and confidence of the nation's citizenry.

- 1. All personnel should be familiar with and comply with the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 C.F.R. Part 2635, the DHS Supplemental Ethics Regulation found at 5 C.F.R. Part 4601, and [DHS MD 0480.1: Ethics/Standards of Conduct](#), and are encouraged to refer to the Office of Government Ethics' website: <https://www.oge.gov>, for access to ethics statutes, regulations, forms, and helpful informational materials.
- 2. To ensure that every citizen can have complete confidence in the integrity of the federal government, personnel must respect and adhere to the principles of ethical conduct set forth below.
 - a. Place loyalty to the Constitution, the laws, and ethical principles above private gain as public service is a public trust.
 - b. Not hold financial interests that conflict with the conscientious performance of duty.
 - c. Not engage in financial transactions using nonpublic government information or allow the improper use of such information to further any private interests.
 - d. Not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by FEMA, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
 - e. Put forth an honest effort in performing their duties.

- f. Not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
 - g. Not use public office for private gain.
 - h. Shall act impartially and not give preferential treatment to any private organization or individual.
 - i. Protect and conserve federal property and not use it for unauthorized activities.
 - j. Not engage in unauthorized outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
 - k. Disclose waste, fraud, abuse, and corruption to appropriate authorities.
 - l. Satisfy in good faith, obligations as citizens, including all just financial obligations, especially those such as federal, state, or local taxes that are imposed by law.
 - m. Adhere to all laws and regulations that provide equal opportunity for all citizens regardless of race, color, religion, sex, national origin, age, or disability.
 - n. Endeavor to avoid any actions creating the appearance that they are violating the law, or the ethical standards set forth in this Directive. Whether circumstances create an appearance that the law or these standards have been violated will be determined from the perspective of a reasonable person with knowledge of the relevant facts.
3. Per the DHS Supplemental Ethics Regulation at 5 C.F.R. part 4601, DHS employees are required to obtain written approval before engaging in outside employment and certain outside activities. All personnel covered by this Directive must contact an OCC Ethics Counselor and receive authorization before commencing such activities.
 4. Per the DHS Supplemental Ethics Regulation 5 C.F.R. part 4601.105, no intermittent or non-intermittent FEMA employee shall be employed by a current FEMA contractor unless granted a waiver in accordance with 5 C.F.R. part 4601.105.
 5. Personnel should consult with their supervisor and an OCC Ethics Counselor on general questions regarding the applicability of the standards of conduct regulations. On specific matters, and for guidance on questions of conflict of interest, employees are strongly encouraged to seek the advice and guidance of an OCC Ethics Counselor.

E. POLITICAL ACTIVITY

Outcome: Personnel must abide by the Hatch Act regarding political activities.

1. Political Activity. The Hatch Act generally prohibits the political activity of federal employees while on duty, in a federal workplace, in a Government vehicle, or while conducting official business. For purposes of the Hatch Act, political activity is defined as activity directed at success or failure of a political party, partisan political group, or candidate for partisan political office.
2. All personnel are encouraged to refer to an OCC Ethics Counselor for a complete listing of [Hatch Act](#) prohibitions.

F. REPORTING

Outcome: All personnel report alleged violations of the Standards of Conduct or alleged violations of ethical conduct.

1. All personnel have the responsibility to report allegations of employee misconduct, including any violations of law, rule or regulation, of which they are aware. Violations of these Standards of Conduct (including those further listed in facility-specific guidance) shall be reported immediately. Minor infractions that do not rise to the level of “reportable misconduct” shall be reported to the violator’s supervisor at FEMA. Violations that rise to the level of “reportable misconduct” under [FD 112-13 Office of Professional Responsibility](#) shall be reported to OPR.
2. Any alleged violation of Federal, state, or local criminal laws by person(s) subject to this Directive shall be reported to OPR and/or the DHS Office of Inspector General (OIG) in accordance with FD 112-13 and to the appropriate law enforcement authorities using one of the following methods:
 - a. FEMA Office of Professional Responsibility (OPR)
 - i. Via email: FEMA-Misconduct@fema.dhs.gov
 - ii. By telephone: 833-TELL-OPR (833-835-5677)
 - iii. By U.S. Mail: FEMA Headquarters, 400 C Street, SW
3rd Floor (3SW), Washington, DC, 20472-3155
 - b. DHSOIG
 - i. By telephone: 800-323-8603; TTY 844-889-4357; Fax 202-254-4297
 - ii. By U.S. Mail: DHS Office of Inspector General/MAIL STOP 0305,
Attn: Office of Investigations – Hotline
245 Murray Lane SW
Washington, DC 20528-0305
3. All personnel must report to their supervisor (or a supervisor within their chain of command) and OPR any personal adverse involvement with law enforcement as a result of criminal conduct (e.g. arrest, criminal citations, temporary restraining orders, etc.). (See F.2.a for OPR reporting methods.)
4. All personnel may report to the Office of Special Counsel allegations that constitute Whistleblower Protection Enhancement Act disclosures or other Prohibited Personnel Practices pursuant to 5 U.S.C. § 2302.

G. EMPLOYEE ACCOUNTABILITY

Outcome: All personnel must be responsible for their own actions and are subject to being held accountable for any substantiated allegations of misconduct.

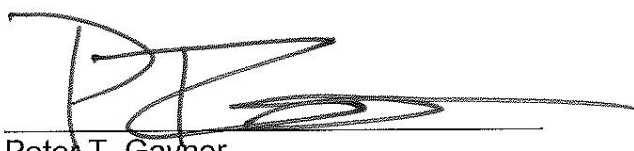
1. All FEMA employees are accountable for their actions and are subject to appropriate disciplinary action for misconduct when an investigation has determined the employee is in violation of any laws, rules, or regulations. Discipline can range from an official written reprimand to termination. See [FEMA Manual 255-3-1 Employee Discipline Manual](#).
2. All other personnel are required to know the Personnel Standards of Conduct, its

application to their behavior, and to adhere to it. Violations of these standards of conduct may be reported to the sponsoring/sending agency.

H. TRAINING

Outcome: All FEMA employees complete training classes (online or classroom) as determined by DHS, FEMA, and federal mandate where required.

1. All FEMA employees must participate and complete all requisite training as determined by FEMA, DHS, Federal laws, regulations, and policies. Ethics Training will require new FEMA employees to review the Principles of Ethical Conduct set forth in Executive Orders 12674 and 12731, as well as the Standards of Ethical Conduct for Employees of the Executive Branch (as codified in 5 C.F.R. Part 2635). Ethics training must be completed within 3 months of the new hire's Entrance on Duty (EOD) date and be instructed by an Agency official designated by OCC.
 - a. New FEMA employees who do not complete their required ethics training will be notified by OCCHCO of the outstanding requirement.
2. All personnel who attend training at any FEMA training and educational facility, to include but not limited to the National Emergency Training Center, Center for Domestic Preparedness, and Mount Weather Emergency Operations Center, must comply with FEMA Policy 123-0-2, FEMA Educational and Training Participants Standards of Conduct and any additional facility-specific guidance. FEMA employees will be subject to appropriate disciplinary action for any academic or other misconduct as described in FEMA Policy 123-0-2, FEMA Educational and Training Participants Standards of Conduct. To the extent that this directive conflicts with FEMA Policy 123-0-2, this directive shall control, and discipline will be governed by [FEMA Manual 255-3-1, Employee Discipline Manual](#).



Peter T. Gaynor
Administrator
Federal Emergency Management Agency

14 OCT 2020
Date

ADDITIONAL INFORMATION

REVIEW CYCLE

FEMA Directive 123-0-2-1, Personnel Standards of Conduct will be reviewed, reissued, revised, or rescinded within four (4) years of the issue date.

AUTHORITIES

- A. 5 C.F.R. § 2635, Standards of Ethical Conduct for Employees of the Executive Branch
- B. 5 C.F.R. Part 735, Employee Responsibilities and Conduct
- C. 5 U.S.C. §§ 7321-7326 (Hatch Act) and implementing regulations at 5 C.F.R. Part 11734
- D. 5 U.S.C. § 2302, Prohibited Personnel Practices
- E. 5 U.S.C. § 3110, Employment of Relatives; restrictions
- F. Executive Orders (EO) 12674 and 12731, Principles of Ethical Conduct for Government Officers and Employees
- G. 5 C.F.R. Part 4601, DHS Supplemental Standards of Ethical Conduct for Employees of the Department of Homeland Security
- H. 5 CFR § 4601.105, Additional rules for Federal Emergency Management Agency (FEMA) employees
- I. 41 C.F.R. § 102-74.405, What is the Policy Concerning the Use of Alcoholic Beverages?

REFERENCES

- A. FEMA Policy 112-01, Publication 1 (We are FEMA)
- B. DHS MD 11042.1, Safeguarding Sensitive but Unclassified Information
- C. DHS Directive 256-01, Anti-Harassment Directive
- D. DHS Instruction 256-01-001, Anti-Harassment Program
- E. DHS Directive 256-03, Workplace Violence
- F. DHS Policy Statement 256-06, Anti-Harassment Policy Statement, April 1, 2019
- G. DHS MD 0480.1, Ethics/Standards of Conduct
- H. DHS MD 4900, Individual Use and Operation of DHS Information Systems/Computers
- I. DHS MD 4600.1, Personal Use of Government Office Equipment, April 14, 2003
- J. Legal Advisory Memo (LA-15-03), The Standards of Conduct as Applied to Personal Social Media Use, David Apol (General Counsel), April 9, 2015
- K. OPM Memorandum from Katherine Archuleta, Director, "Federal Laws and Policies Prohibiting Marijuana Use" dated May 26, 2015
- L. FEMA Directive 103-1, Data Management
- M. FEMA Directive 121-6, Fraud Prevention and Investigation Directive
- N. FEMA Directive 123-18, Standard FEMA Distinctive Clothing
- O. FEMA Directive 141-1, FEMA Records Management Program
- P. FEMA Directive 146-1, Suspension and Debarment of Individuals and Non-federal Entities
- Q. FEMA Directive 112-5, Obtaining Legal Review and Assistance
- R. FEMA Directive 119-7, Federal Personal Property Management
- S. FEMA Manual 119-7-1, Personal Property
- T. FEMA Directive 140-1, FEMA IT Management
- U. FEMA Directive 112-14, Equal Opportunity and Affirmative Employment
- V. FEMA Directive 112-11, Title VI Civil Rights Program

- W. FEMA Directive 112-13, Office of Professional Responsibility
- X. FEMA Directive 121-1, Personal Identification Standard
- Y. FEMA Directive 252-7, Intergovernmental Personnel Act (IPA)
- Z. FEMA Manual 123-10-1, Absence and Leave
- AA. FEMA Manual 123-20-1, Drug-Free Workplace Program
- BB. FEMA Instruction 119-24-1, FEMA Fleet Management Program
- CC. FEMA Manual 255-3-1, Employee Discipline Manual
- DD. FEMA Manual 256-3-1, Administrative Grievance System
- EE. FEMA Manual 122-1-1, Travel Policy Manual
- FF. FEMA Instruction 121-3-1, Credential and Access Reference Instruction
- GG. Items Prohibited from Federal Facilities: An Interagency Security Committee Standard (February 2013)
- HH. FEMA Policy 123-0-2, FEMA Educational and Training Participants Standards of Conduct

FORMS

- A. FEMA Form 256-6-1-1, FEMA Outside Employment Request
- B. FEMA Form 30-14, Receipt of FEMA Standards of Conduct

MONITORING AND EVALUATION

OCCHCO will ensure the Personnel Standards of Conduct Directive is communicated agency-wide and periodically evaluate its effectiveness during the document's review cycle.

QUESTIONS

Questions concerning FEMA Directive 123-0-2-1, Personnel Standards of Conduct should be addressed to the Office of the Chief Component Human Capital Officer at (866) 896-8003 or FEMA-HC-ServiceDesk@fema.dhs.gov.

APPENDIX A

A. Roles and Responsibilities

1. Office of the Chief Component Human Capital Officer (OCCHCO) is responsible for:
 - a. Developing, approving, and maintaining Human Resources policies and procedures for FEMA; and
 - b. Providing guidance and advice to supervisors and managers on the application of the Standards of Conduct; and
 - c. Providing the Standards of Conduct Directive and FEMA Form 30-14, Receipt of FEMA Standards of Conduct, to new employees as part of their orientation package; and
 - d. Assisting supervisors in determining and/or administering discipline as required.
2. Office of the Chief Financial Officer (OCFO) is responsible for:
 - a. Establishing internal controls designed to prevent and detect non-compliance with applicable financial laws, standards, and accounting principles; and
 - b. Managing use and oversight of the Government Travel Card Program.
3. Office of the Chief Security Officer (OCSO) is responsible for:
 - a. Developing, approving, and maintaining security policies and procedures for FEMA and all personnel on FEMA property; and
 - b. Adjudicating an employee's suitability, fitness, and eligibility to occupy a national security position and access to classified information after receipt and review of a substantiated allegation of misconduct.
4. Office of Chief Counsel (OCC) is responsible for:
 - a. Developing, reviewing, approving, and maintaining legal policies and regulations for FEMA; and
 - b. Providing guidance and advice to supervisors and managers on the application of Standards of Conduct; and
 - c. Designating an agency official to conduct ethics training to new hires within 3 months of the new hire's EOD; and
 - d. Responding and advising employees on ethical obligations and approving or disapproving outside employment or activities when requested through their ethics office and program; and
 - e. Forwarding appropriate complaints and situations to OPR for appropriate referral to DHS OIG.
5. Office of Professional Responsibility (OPR) is responsible for:
 - a. Developing, reviewing, approving, and maintaining employee misconduct policies for FEMA employees; and
 - b. Receiving, documenting, reviewing, routing, and investigating all allegations of misconduct involving FEMA employees.
6. Office of Equal Rights (OER) is responsible for:
 - a. Developing, reviewing, approving, maintaining and enforcing equal opportunity, affirmative employment, and anti-discrimination laws, regulations, and policies; and
 - b. Providing guidance and advice to FEMA employees on equal opportunity, affirmative employment, and anti-discriminatory practices or questions; and
 - c. Addressing and investigating alleged acts cognizable within the EEO complaint process under 29 C.F.R. Part 1614.
7. Office of Chief Information Officer (OCIO) is responsible for:
 - a. Developing, reviewing, approving, and maintaining information technology security

policies and requirements for FEMA.

8. Supervisors are responsible for:
 - a. Ensuring employees know and adhere to this Directive; and
 - b. Serving as a role model by providing positive leadership through positive actions and respectful communications; and
 - c. Treating fellow employees and subordinates with dignity, respect, and professionalism; and
 - d. Taking prompt action to notify the proper offices and persons to address any alleged misconduct; and
 - e. Addressing allegations of misconduct per FEMA and DHS policies and regulations; and
 - f. Reporting any potential conflict of interest situations to an OCC ethics counselor; and
 - g. Preserving confidentiality of employee complaints by sharing information only with those who have a need to know to carry out official duties and government business; and
 - h. Communicating and refusing to tolerate harmful, threatening, intimidating, harassing, disruptive, or any other inappropriate workplace behavior.

Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor

Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003

Expires: 5/31/2018

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b). Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax: (_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

___ No ___ Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition? ___ No ___ Yes.

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

___ No ___ Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: ___ No ___ Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? ___ No ___ Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? ___ No ___ Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
___ No ___ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? ___ No ___ Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?
___ No ___ Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency : _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

[illegible]

Signature of Health Care Provider

Date _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.**

**Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)**

U.S. Department of Labor
Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003
Expires: 8/31/2021

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: FEMA/DHS, Jamie McCalister, 202-709-0851

Employee's job title: Emergency Management Specialist Regular work schedule: 40 hours

Employee's essential job functions: PDMG, Public Assistance, document control, process monitoring, meetings, data entry, record keeping
off site meetings, Applicant coordination and assistance

Check if job description is attached:

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: Max J Meindl

First

Middle

Last

RECEIVED
01/15/05
MFL

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b). Please be sure to sign the form on the last page.

Provider's name and business address: Dr. Christophe Gay, 235 W Palm St, Ste 102, Bellville, TX 77418

Type of practice / Medical specialty: Family Medicine,

Telephone: () 979-865-8484

Fax: () 979-865-8686

PART A: MEDICAL FACTS

1. Approximate date condition commenced: 8 - 2009

Probable duration of condition: life

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

☐ No ☒ Yes. If so, dates of admission:

3-19-2019, 4-3-2019, 4-4-2019, 4-5-7-2019

Date(s) you treated the patient for condition:

2-6-2019 3-12-2019

Will the patient need to have treatment visits at least twice per year due to the condition? ☐ No ☒ Yes.

Was medication, other than over-the-counter medication, prescribed? ☐ No ☒ Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

☐ No ☒ Yes. If so, state the nature of such treatments and expected duration of treatment:

followed at V.A. Cardio Pulmonary, CAP

2. Is the medical condition pregnancy? ☒ No ☐ Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: ☒ No ☐ Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

CAD HTN

obesity

Hyperglycemia

Arthralgias

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? ☒ No ☐ Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? ☐ No ☒ Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
☐ No ☒ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Scheduled Treatments, consults, Indeterminate

Estimate the part-time or reduced work schedule the employee needs, if any:

1-2 hour(s) per day; 5 days per week from 11-2019 through 11-2020

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? ☐ No ☒ Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?
☐ No ☒ Yes. If so, explain:

Morning Dizziness & caused unsafe condition to Drive
may at times occur Daily

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

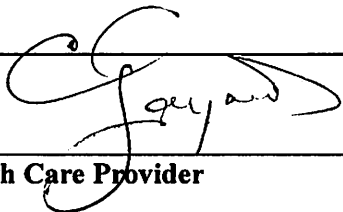
Frequency : 3-5 times per 1 week(s) month(s)

Duration: 1-3 hours or 1 day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

Pt. has chronic CAD and is not
expected to recover any time soon.
He is able to accomplish his tasks
but for medical reasons needs more
flexibility in his schedule

Pt. has cardiac Disability and
needs to be accommodated



Signature of Health Care Provider

4 Nov 19

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.**

From: Alexander, Dennis <dennis.alexander@fema.dhs.gov>
Sent: Sunday, February 2, 2020 12:35 AM
To: Meindl, Max <max.meindl@fema.dhs.gov>
Cc: Richardson, Derek <derek.richardson.2@fema.dhs.gov>; Terry, Detra <detra.terry@fema.dhs.gov>; Dyson, Robert <Robert.Dyson@fema.dhs.gov>
Subject: Deficient Performance Concerns & Corrective Feedback 1/31/2020
Importance: High

Max,

As we discussed on Friday, I gave you examples of corrective actions and feedback where your performance needs improvement. And I requested actions on your part to improve your performance in handling communications with Applicants, and dealing with other FEMA groups, including the CRC.

I have memorialized our discussions in the attachment to this email which includes Performance expectations, and corrective actions which I know you have the ability to make these changes. Also, as mentioned in the attached summary, for the next 30 days no communications outside FEMA TRO, unless it is reviewed and approved by your PDTFL first.

I appreciate your attention to these performance issues.

V/R

Dennis

Dennis J. Alexander, P.E.
Public Assistance Group Supervisor
Disaster DR4332 TX-- Harvey
TRO TX Harris County Branch II
8223 Willow Place Drive South
Houston, TX 77070
281-897-2017 Desk Phone
737-230-8182 Cell Phone
979-885-8256 Alternate Cell
Dennis.alexander@fema.dhs<mailto:[Dennis.alexander@fema.dhs](mailto:Dennis.alexander@fema.dhs.gov)>.gov

HEART CONDITION

Home / Disabilities

A to Z: Heart Condition

About Heart Condition

The term “heart condition” includes conditions such as high blood pressure, coronary heart disease, congestive heart failure, and congenital cardiovascular impairments. Each type of heart condition has its own symptoms, which may include angina (chest pain sometimes radiating down the left arm or into the jaw); sensations of fluttering, thumping, pounding, or racing of the heart (palpitations); edema (swelling and fluid retention in the legs, ankles, abdomen, lungs, or heart); lightheadedness, weakness, dizziness, or fainting spells; breathlessness; chronic fatigue; and gastric upset (or nausea).

Heart Condition and the Americans with Disabilities Act

The ADA does not contain a definitive list of medical conditions that constitute disabilities. Instead, the ADA defines a person with a disability as someone who (1) has a physical or mental impairment that substantially limits one or more "major life activities," (2) has a record of such an impairment, or (3) is regarded as having such an impairment. For more information about how to determine whether a person has a disability under the ADA, see [How to Determine Whether a Person Has a Disability under the Americans with Disabilities Act Amendments Act \(ADAAA\)](#).

Accommodating Employees with Heart Condition

People with heart conditions may develop some of the limitations discussed below, but seldom develop all of them. Also, the degree of limitation will vary among individuals. Be aware that not all people with heart conditions will need accommodations to perform their jobs and many others may only need a few accommodations. The following is only a sample of the possibilities available. Numerous other accommodation solutions may exist.

Questions to Consider:

1. What limitations is the employee experiencing?
2. How do these limitations affect the employee and the employee’s job performance?
3. What specific job tasks are problematic as a result of these limitations?
4. What accommodations are available to reduce or eliminate these problems? Are all possible resources being used to determine possible accommodations?
5. Once accommodations are in place, would it be useful to meet with the employee to evaluate the effectiveness of the accommodations and to determine whether additional accommodations are needed?
6. Do supervisory personnel and employees need training?

Key Accommodations

Decreased Stamina/Fatigue: Individuals with heart conditions can become fatigued to the extent they can’t work a full shift or perform the physical aspects of their jobs.

- Allow work from home
- Allow flexible scheduling and flexible leave
- Implement ergonomic considerations

- Eliminate physical exertion
- Permit a service animal for mobility assistance

Dizziness: Individuals with heart conditions may experience dizziness or lightheadedness when standing up quickly, standing in place for prolonged periods, or from prolonged walking.

- Provide chairs with armrests and locking casters so that individuals can steady themselves when standing up without worry that the chair will move
- Provide stools or chairs to allow for alternating between standing and sitting
- Allow additional rest breaks or modify when tasks are done to break up periods of prolonged walking

Gross Motor: Individuals with heart conditions may experience short- or long-term gross motor limitations.

- Implement ergonomic considerations
- Provide equipment, e.g., lifting devices, carts, stand/lean stools
- Permit the use of mobility aids and/or service animal

Fine Motor: Individuals with heart conditions may have fine motor limitations stemming from conditions such as a stroke.

- Provide speech recognition software and/or alternative mice
- Provide ergonomic tools and/or tool balancers
- Provide grip aids and/or reachers

Effect of/ Receive Medical Treatment: Individuals with heart conditions may need time to attend medical appointments or recover from medical treatment or procedures.

- Allow the employee to work from home
- Allow flexible scheduling and flexible leave

Accommodation Ideas:

By Limitation	By Work-Related Function
---------------	--------------------------

By Limitation

By Limitation

<div><div>➤</div><div>Balancing</div></div> <div><ul style="list-style-type: none">• Living Independently<ul style="list-style-type: none">◦ Bath Chairs◦ Canes◦ Crutches◦ Grab Bars◦ Personal Safety and Fall Alert Devices◦ Rollators and Rolling Walkers◦ Scooters◦ Stair Assists◦ Stair Lifts◦ Swing Away Grab Bars◦ Toileting Aids◦ Walkers with Seats◦ Walkers• Moving Around<ul style="list-style-type: none">◦ All-Terrain Scooters◦ All-Terrain Wheelchairs◦ Canes◦ Crutches</div>



FEMA

January 06, 2025

MEMORANDUM FOR: Max J. Meindl
Emergency Management Specialist - CORE
Region 6
Recovery Division

FROM: Anthony In
Supervisory Emergency Management Specialist
Region 6
Recovery Division

SUBJECT: Notice of Termination of Appointment

This memorandum notifies you that your appointment as a Cadre of On-Call/Response/Recovery Employee (CORE), Emergency Management Specialist, IC-0089-12, Region 6, Recovery Division, Federal Emergency Management Agency (FEMA), and the Federal service is terminated effective January 06, 2025. This action is based on the following charge:

Charge 1: Inability to Perform (As a result of a Medical Condition)

Specification 1: The medical evidence shows that you have hypertension, coronary artery disease with dyspnea on exertion, angina, arthritis of knees, and unable to function well on uneven ground, nor able to walk short distances. Because of these medical conditions, you are unable to travel as your position demands.

BACKGROUND

In a medical certificate dated December 27, 2023, your physician, C. Christophe Gay, MD, stated that you have been his patient for 5 years and are being treated for several significant and chronic illnesses, to include hypertension and coronary artery disease with dyspnea on exertion. He also stated that the significant and chronic illnesses restrict you from being on site and impairs your ability to travel from home safely. Additionally, the Medical Inquiry in Response to a Disability Accommodation Request completed by C. Christophe Gay, MD, PA, provided additional diagnosis of angina, arthritis of knees and limitations of chest pain and dyspnea with exertion and unable to function well on uneven ground, nor able to walk short distances.

On January 2, 2024, you submitted a Reasonable Accommodation request for 100% remote/virtual telework to the Office of Civil Rights (formally Office of Equal Rights) due to you experiencing considerable medical challenges that are impacting your ability to travel to and work from a traditional work environment effectively. Your current role as an Emergency Management Specialist, Program Delivery Task Force Leader (PD TFL), has not been designed

for telework. Specifically, your Position Description states that frequent Temporary Duty (TDY) travel is required and that “The work is normally performed in an office setting. However, this position requires that the incumbent train, maintain a state of readiness, and be deployed into the possible high-risk environment of a disaster site. Conditions in some disaster environments may include irregular diet or rations; limited rest; uncomfortable sleeping conditions; extensive overtime; an environment with unsanitary conditions; and related risks, such as reoccurrence of the disaster event (e.g., general hazards, or additional flooding). Travel may be required on short notice, during poor conditions. Extreme caution must be exercised to assure personal safety, as well as safety of co-workers and members of the public who look to the employee for guidance.”

On September 5, 2024, the Talent Recruitment & Acquisition Division of the Office of the Chief Human Capital Officer initiated a reassignment search process to identify a funded, vacant position within FEMA and other DHS components. On October 30, 2024, the Talent Recruitment & Acquisition Division informed you there were no vacant positions for which you were minimally qualified, and FEMA had exhausted all efforts to accommodate you through the reasonable accommodation process resulting in the denial of your request. Accordingly, the search concluded. On November 26, 2024, you were issued an official denial letter that determined that, based on all the information known to the agency after conducting an individualized assessment of the relevant circumstances, to include the essential functions of the specific job and the requested accommodation(s), that the requested accommodation would require the agency to fundamentally change the nature of the position.

Since you cannot perform the essential functions of your current position as an Emergency Management Specialist with the Recovery Division, Region 6, or any vacant position for which you are qualified with the Federal Emergency Management Agency (FEMA), with or without reasonable accommodation, you are subject to removal for medical inability.

While I am concerned about your personal situation, health, and well-being, I have an obligation to ensure that the work in this office is completed in a timely and efficient way. The position you occupy needs to be filled by an employee who can perform the essential functions of the position on a regular, full-time basis. As there is no foreseeable end to your inability to perform the essential functions of your position, and to promote the efficiency of the service, it is necessary to move forward with your removal.

Determination

In determining the appropriate conclusion to impose regarding this matter, the following factors were taken into consideration.

1. I considered that you are incapable of performing the duties of your position as an Emergency Management Specialist, IC-0089-12, due to your documented medical conditions.
2. I considered that you signed the Conditions of Employment that states that you “understand that I may be assigned to perform my disaster-related duty. Irrespective of my position description, based on the needs of the operational situation, and I must be ready to deploy

wherever the Agency needs my services within 24 -48 hours of notification” on October 31, 2023.

3. I do not believe that there are any alternative or lesser actions that would enable you to perform your duties, and the decision to remove you from your position is adequate and in the best interest of the Agency.

You must turn in all Government-issued equipment, including but not limited to cellular phones, laptop computers, keys, credentials, access or identification cards, Government travel credit/charge card (cut credit card in half), and any FEMA office files or back-up (key drives/discs) computer files you have in your possession no later than close of business on January 10, 2025.

Employee Rights

Because you were appointed to a position under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, your appointment is excluded from the provisions of Title V. FEMA is extending to you the opportunity to appeal this decision to Supervisory Emergency Management Specialist, Jodi Hunter. If you wish to appeal this decision you may do so in writing no later than 5:00 p.m. on the fifth calendar day after you receive this notice. Your appeal must be sent to Ms. Hunter **through** Talease Hughes-Harris, Labor and Employee Relations Specialist via email at talease.hughesharris@fema.dhs.gov. Ms. Hunter will issue a final decision.

If you wish to allege this action was the result of prohibited discrimination based on race, color, religion, sex, national origin, disability, age, genetic information, or reprisal, you may file a discrimination complaint with the FEMA Office of Equal Rights. To file a complaint with the FEMA Office of Equal Rights, you must contact a counselor within 45 days of the effective date of this action. Your complaint should be sent in writing to: Office of Equal Rights, 500 C Street SW, 4th Floor, Washington, DC, 20472-3505. You can reach a member of the Equal Rights staff at (202) 646-3535.

Federal Benefits

The Retirement and Benefits branch is available to answer any questions you may have concerning retirement and your Federal benefits. Please contact the Retirement and Benefits Branch at FEMA-HC-BENEFITS@FEMA.DHS.GOV.

Employee Assistance Program

If you would like to talk with an Employee Assistance Program (EAP) Counselor about this matter or any personal and/or work-related matter, a counselor can be reached at 1-800-222-0364. You do not have to pay a fee to use the service. However, if the counselor refers you outside the program and if any costs are incurred, those costs are your responsibility. Consultations with a Counselor

are strictly confidential- the Counselor cannot release information about you to anyone, without your permission. This is a voluntary program - meaning you cannot be ordered to contact a Counselor.

If you have any questions concerning this notice, please contact Talease Hughes Harris, Office of the Chief Component Human Capital Officer, Employee Services Division, Labor and Employee Relations Branch at talease.hughesharris@fema.dhs.gov or (202) 706-3540.

cc:

Talease Hughes-Harris, LER

Acknowledgement of Receipt

You are requested to sign and date the acknowledgment copy of this memorandum as evidence that you have received it. Your signature does not indicate that you agree or disagree with the contents of this memorandum. However, your failure to sign the acknowledgment copy will not void the contents of this memorandum.

Max J. Meindl

DATE



FEMA

March 8, 2019

MEMORANDUM FOR: Max Meindl
Program Delivery Manager | Houston TRO
DHS | FEMA-Recovery Directorate
Public Assistance Division

FROM: Jamie McAllister
Deputy Infrastructure Branch Director
DR 4332 TX JFO Austin
Region 6 Infrastructure Branch
DHS/FEMA

SUBJECT: Request for To Telework

This serves to deny your reasonable accommodation request for episodic telework dated November 26, 2018.

As your Supervisor of Record (SOR), I reviewed your signed 256 Form, and medical documentation submitted in support of your request to telework as a reasonable accommodation.

In order for a reasonable accommodation to be provided, it must first be determined that the individual making the request is a qualified individual with a disability. A qualified individual defined is as "an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires." 42 U.S.C. § 12111(8).

42 U.S. Code § 12102 defines the term "disability" with respect to an individual as:

(A) A physical or mental impairment that substantially limits one or more major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

The EEOC defines a reasonable accommodation as any change in the workplace or in the way things are customarily done that provides an equal employment opportunity to an individual with a disability when an employee with a disability needs an accommodation to perform the essential functions of the job held.

The EEOC defines essential functions as those job duties that are fundamental to the position that the individual holds or desires. According to the EEOC, evidence of whether a particular function is



essential includes the agency's judgment (generally a supervisor's, manager's and/or office director's judgment), and a written position description developed before a job is advertised.

The job announcement for the Cadre of On-call Response/Recovery Employee (CORE) position states:

"All candidates must be able to deploy with little or no advance notice to anywhere in the United States and its territories for an extended period of time. Deployments may include working in excess of eight hours a day, or in excess of 40 hours per week, including weekends and holidays, and under stressful, physically demanding, and austere conditions."

In *Demyanovich v. Cadon Plating and Coatings, LLC*, 747 F.3d 419 (6th Cir. 2014), the court found that "a written job description and the employer's judgment constitute evidence of whether a particular job function is essential". At the Texas Recovery Office Public Assistance Cadre (TRO PA) telework is not allowed for emergency management employees outside of very limited weather-related cases. Management has determined it is an essential job function to travel to the office and visit applicants in person at their office location.

Further, pursuant to 29 U.S.C. § 701 et seq., the Rehabilitation Act of 1973, an employer is not required to eliminate an essential function of a position in response to a request for reasonable accommodation. Also, see (*Minniham v. Mediacom Commc'ns Corp.*, 779 F.3d 803 (8th Cir. 2015)). Your request to telework would require removal of an essential job function. The appropriate accommodation would be a reassignment to a position that allows telework. Should you choose to appeal the SOR's decision, you may do so using the following procedure:

Request for reconsideration:

If an individual wishes to request reconsideration of this decision, she/he must take the following steps:

An employee may appeal directly to his/her Second Level Supervisor. The employee may present additional information in support of his/her request.

An applicant may appeal directly to the Disability Employment Program Manager of the Office of Equal Rights. The applicant may present additional information in support of his/her request.

If an individual wishes to file an EEO Complaint, or to pursue MSPB or union grievance procedures, she/he must take the following steps:

For an EEO complaint pursuant to 29 C.F.R. 1614, contact an EEO Counselor in the Office of Equal Rights within 45 days from the date of this denial of reasonable accommodation; or



FEMA

For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement; or

Initiate an appeal to the Merit Systems Protection Board within 30 days of an appealable adverse action as defined in 5 C.F.R. 1201.3

Jamie McAllister, Deputy IBD

Name & Title of Deciding Official

Signature of Deciding Official

Date

Acknowledgement of Receipt:

Please sign the acknowledgement of receipt below. Your signature does not indicate agreement with this decision, and by signing, you do not forfeit any of your rights cited above. Your signature only represents your receipt of this decision on the date signed.

Max Meindl

DATE



FEMA

U.S. Department of Homeland Security
Washington, DC 20472

Max Meindl

max.meindl@fema.dhs.gov

October 30, 2023

You have been tentatively selected to fill the Emergency Management Specialist (Recovery) position advertised as FEMA-23-TBH-682147-CORE with the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), Regional Offices, Region Six, Recovery Division, Public Assistance Branch located in Bellville, Texas. The offer details are as follows:

Appointment – Position

Position Title: Emergency Management Specialist (Recovery)

Pay Plan-Series-Level: IC-0089-12, Step 2

Base Pay: \$ 73,469 per annum

Locality Rate: \$ 25,325 per annum

Total Pay: \$ 98,794 per annum

Duty Station Location: Bellville, Texas

Work Schedule: Full time

Appointment: 2-year CORE Appointment

Deployment Details: You are subject to 24-hour on-call deployment in the event of an emergency. Deployment durations may vary based on Agency need.

Agency Effective Date: To be determined. This offer is contingent upon successful completion of the pre-employment process.

Next Steps

This is not an official job offer.

FEMA will not be responsible for any actions taken by you in reliance of this tentative selection.

1. All selectees are required to undergo a security background investigation before moving forward to the next stage of the hiring process. You will need to complete the attached acceptance documents and return via chloe.kissinger@fema.dhs.gov (password protected) no later than **Thursday, November 2, 2023**. **Please note you will need to write out the full year (MM/DD/2023) for all dates on your acceptance paperwork.**
2. Upon successful completion of the pre-employment process, you will be contacted to discuss a start date for your new position and a final job offer will be issued.

FEMA provides Reasonable Accommodation(s) to qualified employees and applicants with disabilities. Reasonable Accommodation requests are granted on a case-by-case basis. Medical documentation may be requested if the disability is not obvious. If you would like to request an accommodation, please contact the Office of Equal Rights at FEMA-Reasonable-Accommodation@fema.dhs.gov, at your earliest convenience.

Benefits

As a current FEMA employee, your benefits package will not change.

For questions regarding your current benefits package, please contact:
FEMA-HC-Benefits@fema.dhs.gov.

Ethical Obligations

Your official duty station is your residence of record (home address). It is your responsibility to:

- Maintain accurate address records with FEMA. You must notify your HR Specialist immediately if your address changes prior to your start date as this may impact your job offer; including your duty station and total pay rate. If you move after your start date, you must notify your Supervisor immediately so they may initiate the process to update your duty station, pay rate, and any applicable tax forms.
- Foster an environment that ensures you can perform your official duties safely, as well as home maintenance, insurance and utilities required to operate Government equipment that is issued to you, including cell phones and laptop.

The Department of Homeland Security (DHS) is committed to ensuring that all of our employees act in a manner that embodies the Department's Mission Statement: With honor and integrity, we will safeguard the American people, our homeland and our values. As an employee of the Department, you will be joining a workforce that is dedicated to accomplishing our mission while maintaining the trust of our Nation by strictly adhering to all government ethics standards. Your conduct will be subject to the ethics rules applicable to all Executive Branch employees and the criminal conflict of interest statutes. These rules will assist you in maintaining your impartiality and acting in the public's interest as you carry out the responsibilities of your DHS position. If you have a concern at any time that a DHS assignment may involve one of your personal financial interests, promptly notify your supervisor and obtain ethics guidance from a DHS Ethics Official before working on the assignment.

To receive further consideration for this offer, please return your acceptance documents as soon as possible to initiate the pre-employment process. Failure to return the acceptance documents by the deadline may result in FEMA rescinding your tentative job offer.

Please contact me at 202-417-0245 if you have additional questions regarding your tentative job offer.

Chloe Kissinger
Human Resources Specialist
FEMA | OCHCO | Disaster Field Staffing

430 Market Street
Winchester, VA 22603

CONDITIONS OF EMPLOYMENT

- **CORE** (Cadre of On-Call Response Employee) – hired to perform longer term disaster work at a fixed location with a regular tour of duty.

NATURE OF APPOINTMENT:

- I understand that this is a temporary civil service excepted service position that does not confer eligibility or priority consideration for permanent appointment. I may be terminated at any time, with cause (e.g. poor performance or misconduct) or without cause (e.g. downsizing of workforce, change in program direction or operational needs). My appointment will neither help nor hinder my chances for permanent appointment.
- I understand that my appointment is subject to successful completion and processing of essential security investigation forms, cooperation with the investigation and a favorable determination on my suitability for Federal employment.
- I will conduct myself at all times in a professional manner, preserve the public trust and adhere to FEMA/DHS rules and regulations.
- I may be required to work long hours under stressful and unfavorable conditions.
- I understand that I may be assigned to perform my disaster-related duty, irrespective of my position description, based on the needs of the operational situation.
- I may be released from an assignment at any time and with little or no notice based on the needs of the operation. In addition, I understand that I may be placed in a non-duty, no-pay status at anytime (e.g. due to downsizing of the workforce or change in program direction) and may be terminated at any time for cause (e.g. poor performance or misconduct) and that I am not subject to any protection afforded by reduction-in-force provisions, re-employment rights or adverse action procedures established under any statutory or regulatory provision.
- My work schedule and temporary geographical assignment may be changed based on the mission needs of the Agency.
- I must be ready to deploy wherever the Agency needs my services within 24 -48 hours of notification.
- I understand that I will receive benefits such as health and life insurance
- I understand that my appointment will end on the Not to Exceed (NTE) date of my appointment, unless it is extended based on the needs of the Agency.

CONDITIONS OF APPOINTMENT:

- Use of electronic funds transfer is mandatory for salary payments and travel reimbursements.
- I must be eligible for and able to maintain a government issued travel card and I will abide by the terms and conditions established by the card provider and FEMA. Violations (e.g. delinquency, personal use of card) will result in appropriate disciplinary action, up to and including termination of employment.
- I will travel in the most expeditious and cost effective manner, using the Agency's Travel Agent to make all my travel arrangements.
- If I am authorized to use a motor vehicle for official business, I must comply with all applicable laws, regulations and policies relating to official motor vehicle usage.
- Upon arriving at a temporary duty station location, I must check in by phone and follow instructions. I am also required to check out and update my deployment status with the Automated Deployment Database.
- If I am a retired Federal civil servant, my pay from FEMA may be subject to offset.

I CERTIFY THAT I HAVE READ AND UNDERSTAND THE TERMS AND CONDITION OF MY EMPLOYMENT WITH FEMA AS A STAFFORD ACT EMPLOYEE. I ALSO UNDERSTAND THAT FAILURE TO MEET AND MAINTAIN THE CONDITIONS OF EMPLOYMENT AT ANY TIME COULD RESULT IN TERMINATION OF MY EMPLOYMENT.

Max J Meindl

Printed Name of Employee

Signature of Employee

3134

Last Four digits of SSN

10/31/2023

Date

Declaration for Federal Employment*

(*This form may also be used to assess fitness for federal contract employment)

Form Approved:
OMB No. 3206-0182

Instructions

The information collected on this form is used to determine your acceptability for Federal and Federal contract employment and your enrollment status in the Government's Life Insurance program. Most applicants are asked to complete this form after a tentative offer of employment has been made; however, depending on your position, you may be asked to complete this form earlier during the hiring process. Follow instructions that the agency provides. Before you are appointed you will be asked to update your responses on this form and on other materials submitted during the application process and then to recertify that your answers are true.

All your answers must be truthful and complete. **A false statement on any part of this declaration or attached forms or sheets may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by a fine or imprisonment (U.S. Code, title 18, section 1001).**

Either type your responses on this form or print clearly in dark ink. If you need additional space, attach letter-size sheets (8.5" X 11"). Include your name, Social Security Number, and item number on each sheet. We recommend that you keep a photocopy of your completed form for your records.

Privacy Act Statement

The Office of Personnel Management is authorized to request this information under sections 1302, 3301, 3304, 3328, and 8716 of title 5, U. S. Code. Section 1104 of title 5 allows the Office of Personnel Management to delegate personnel management functions to other Federal agencies. If necessary, and usually in conjunction with another form or forms, this form may be used in conducting an investigation to determine your suitability or your ability to hold a security clearance, and it may be disclosed to authorized officials making similar, subsequent determinations.

Your Social Security Number (SSN) is needed to keep our records accurate, because other people may have the same name and birth date. Public Law 104-134 (April 26, 1996) asks Federal agencies to use this number to help identify individuals in agency records. Giving us your SSN or any other information is voluntary. However, if you do not give us your SSN or any other information requested, we cannot process your application. Incomplete addresses and ZIP Codes may also slow processing.

ROUTINE USES: Any disclosure of this record or information in this record is in accordance with routine uses found in System Notice OPM/GOVT-1, General Personnel Records. This system allows disclosure of information to: training facilities; organizations deciding claims for retirement, insurance, unemployment, or health benefits; officials in litigation or administrative proceedings where the Government is a party; law enforcement agencies concerning a violation of law or regulation; Federal agencies for statistical reports and studies; officials of labor organizations recognized by law in connection with representation of employees; Federal agencies or other sources requesting information for Federal agencies in connection with hiring or retaining, security clearance, security or suitability investigations, classifying jobs, contracting, or issuing licenses, grants, or other benefits; public and private organizations, including news media, which grant or publicize employee recognitions and awards; the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, the National Archives and Records Administration, and Congressional offices in connection with their official functions; prospective non-Federal employers concerning tenure of employment, civil service status, length of service, and the date and nature of action for separation as shown on the SF 50 (or authorized exception) of a specifically identified individual; requesting organizations or individuals concerning the home address and other relevant information on those who might have contracted an illness or been exposed to a health hazard; authorized Federal and non-Federal agencies for use in computer matching; spouses or dependent children asking whether the employee has changed from a self-and-family to a self-only health benefits enrollment; individuals working on a contract, service, grant, cooperative agreement, or job for the Federal government; non-agency members of an agency's performance or other panel; and agency-appointed representatives of employees concerning information issued to the employees about fitness-for-duty or agency-filed disability retirement procedures.

Public Burden Statement

Public burden reporting for this collection of information is estimated to vary from 5 to 30 minutes with an average of 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to the U.S. Office of Personnel Management, Reports and Forms Manager (3206-0182), Washington, DC 20415-7900. The OMB number, 3206-0182, is valid. OPM may not collect this information, and you are not required to respond, unless this number is displayed.

Declaration for Federal Employment*

Form Approved:
OMB No. 3206-0182

(*This form may also be used to assess fitness for federal contract employment)

General Information

1. FULL NAME (Provide your full name. If you have only initials in your name, provide them and indicate "Initial only". If you do not have a middle name, indicate "No Middle Name". If you are a "Jr.," "Sr.," etc. enter this under Suffix. First, Middle, Last, Suffix)

◆

2. SOCIAL SECURITY NUMBER

◆

3a. PLACE OF BIRTH (Include city and state or country)

◆

3b. ARE YOU A U.S. CITIZEN?

☐ YES ☐ NO (If "NO", provide country of citizenship) ◆

4. DATE OF BIRTH (MM / DD / YYYY)

◆

5. OTHER NAMES EVER USED (For example, maiden name, nickname, etc.)

◆

◆

6. PHONE NUMBERS (Include area codes)

Day ◆

Night ◆

Selective Service Registration

If you are a male born after December 31, 1959, and are at least 18 years of age, civil service employment law (5 U.S.C. 3328) requires that you must register with the Selective Service System, unless you meet certain exemptions.

7a. Were you born a male after December 31, 1959?

☐ YES

☐ NO (If "NO", proceed to 8.)

7b. Have you registered with the Selective Service System?

☐ YES (If "YES", proceed to 8.)

☐ NO (If "NO", proceed to 7c.)

7c. If "NO," describe your reason(s) in item 16.

Military Service

8. Have you ever served in the United States military?

☐ YES (If "YES", provide information below) ☐ NO

If your only active duty was training in the Reserves or National Guard, answer "NO."

If you answered "YES," list the branch, dates, and type of discharge for all active duty.

Branch	From (MM/DD/YYYY)	To (MM/DD/YYYY)	Type of Discharge

Background Information

For all questions, provide all additional requested information under item 16 or on attached sheets. The circumstances of each event you list will be considered. However, in most cases you can still be considered for Federal jobs.

For questions 9, 10, and 11, your answers should include convictions resulting from a plea of *nolo contendere* (no contest), but omit (1) traffic fines of \$300 or less, (2) any violation of law committed before your 16th birthday, (3) any violation of law committed before your 18th birthday if finally decided in juvenile court or under a Youth Offender law, (4) any conviction set aside under the Federal Youth Corrections Act or similar state law, and (5) any conviction for which the record was expunged under Federal or state law.

9. During the last 7 years, have you been convicted, been imprisoned, been on probation, or been on parole? (Includes felonies, firearms or explosives violations, misdemeanors, and all other offenses.) *If "YES," use item 16 to provide the date, explanation of the violation, place of occurrence, and the name and address of the police department or court involved.* ☐ YES ☐ NO

10. Have you been convicted by a military court-martial in the past 7 years? *(If no military service, answer "NO.") If "YES," use item 16 to provide the date, explanation of the violation, place of occurrence, and the name and address of the military authority or court involved.* ☐ YES ☐ NO

11. Are you currently under charges for any violation of law? *If "YES," use item 16 to provide the date, explanation of the charges, place of occurrence, and the name and address of the police department or court involved.* ☐ YES ☐ NO

12. During the last 5 years, have you been fired from any job for any reason, did you quit after being told that you would be fired, did you leave any job by mutual agreement because of specific problems, or were you debarred from Federal employment by the Office of Personnel Management or any other Federal agency? *If "YES," use item 16 to provide the date, an explanation of the problem, reason for leaving, and the employer's name and address.* ☐ YES ☐ NO

13. Are you delinquent on any Federal debt? (Includes delinquencies arising from Federal taxes, loans, overpayment of benefits, and other debts to the U.S. Government, plus defaults of Federally guaranteed or insured loans such as student and home mortgage loans.) *If "YES," use item 16 to provide the type, length, and amount of the delinquency or default, and steps that you are taking to correct the error or repay the debt.* ☐ YES ☐ NO

Declaration for Federal Employment*

(*This form may also be used to assess fitness for federal contract employment)

Form Approved:
OMB No. 3206-0182

Additional Questions

14. Do any of your relatives work for the agency or government organization to which you are submitting this form? (Include: father, mother, husband, wife, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, and half-sister.) If "YES," use item 16 to provide the relative's name, relationship, and the department, agency, or branch of the Armed Forces for which your relativeworks. ☐ YES ☐ NO
15. Do you receive, or have you ever applied for, retirement pay, pension, or other retired pay based on military, Federal civilian, or District of Columbia Government service? ☐ YES ☐ NO

Continuation Space / Agency Optional Questions

16. Provide details requested in items 7 through 15 and 18c in the space below or on attached sheets. Be sure to identify attached sheets with your name, Social Security Number, and item number, and to include ZIP Codes in all addresses. If any questions are printed below, please answer as instructed (these questions are specific to your position and your agency is authorized to ask them).

Certifications / Additional Questions

APPLICANT: If you are applying for a position and received a tentative/conditional job offer or have not yet been selected, carefully review your answers on this form and any attached sheets.

APPOINTEE: If you are being appointed, carefully review your answers on this form and any attached sheets, including any other application materials that your agency has attached to this form. If any information requires correction to be accurate as of the date you are signing, make changes on this form or the attachments and/or provide updated information on additional sheets, initialing and dating all changes and additions. When this form and all attached materials are accurate, read item 17, complete 17b, read 18, and answer 18a, 18b, and 18c as appropriate.

17. **I certify** that, to the best of my knowledge and belief, all of the information on and attached to this Declaration for Federal Employment, including any attached application materials, is true, correct, complete, and made in good faith. **I understand that a false or fraudulent answer to any question or item on any part of this declaration or its attachments may be grounds for not hiring me, or for firing me after I begin work, and may be punishable by fine or imprisonment.** I understand that any information I give may be investigated for purposes of determining eligibility for Federal employment as allowed by law or Presidential order. **I consent** to the release of information about my ability and fitness for Federal employment by employers, schools, law enforcement agencies, and other individuals and organizations to investigators, personnel specialists, and other authorized employees or representatives of the Federal Government. **I understand** that for financial or lending institutions, medical institutions, hospitals, health care professionals, and some other sources of information, a separate specific release may be needed, and I may be contacted for such a release at a later date.

- 17a. Applicant's Signature: _____ Date: _____
(MM / DD / YYYY)
- 17b. Appointee's Signature: _____ Date: _____
(MM / DD / YYYY)

Appointing Officer:

Enter Date of Appointment or Conversion
MM / DD / YYYY

18. **Appointee (Only respond if you have been employed by the Federal Government before):** Your elections of life insurance during previous Federal employment may affect your eligibility for life insurance during your new appointment. These questions are asked to help your personnel office make a correct determination.

- 18a. When did you leave your last Federal job? _____ Date: _____
(MM / DD / YYYY)
- 18b. When you worked for the Federal Government the last time, did you waive Basic Life Insurance or any type of optional life insurance? ☐ YES ☐ NO ☐ DO NOT KNOW
- 18c. If you answered "YES" to item 18b, did you later cancel the waiver(s)? If your answer to item 18c is "NO," use item 16 to identify the type(s) of insurance for which waivers were not canceled. ☐ YES ☐ NO ☐ DO NOT KNOW

A Guide to Telework in the Federal Government

Introduction

Late 20th-century technology revolutionized the workplace, and the 21st-century workplace is evolving even further. Computers, remote connectivity, voice and electronic communications, paperless work processes, and other innovations make information and work increasingly mobile.

Such innovations help the Federal Government, as the Nation's largest employer, serve the needs of the American public more efficiently and effectively. Federal employees have used mobile work technology for a long time. In recent years, telework has become increasingly widespread and formalized, with legislative mandates as well as new programmatic and policy supports and structures.

The Office of Personnel Management defines telework as "work arrangements in which an employee regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee." Telework is simply a way of getting work done from a different location. It can serve multiple purposes – and have multiple benefits – when it is implemented effectively in an organization.

For Federal agencies, telework is of particular interest for its benefits in the following areas:

- Recruiting and retaining the best possible workforce - particularly newer workers who have high expectations of a technologically forward-thinking workplace and any worker who values work/life balance
- Helping employees manage long commutes and other work/life issues that, if not addressed, can have a negative impact on their effectiveness or lead to employees leaving Federal employment
- Reducing traffic congestion, emissions, and infrastructure impact in urban areas, thereby improving the environment
- Saving taxpayer dollars by decreasing Government real estate costs
- Ensuring continuity of essential Government functions in the event of national or local emergencies

This guide is intended to help Federal managers and employees understand how to make telework a routine part of doing business, as well as how to integrate telework into emergency planning.

Legislative Background

For over a decade, laws addressing telework (under various names – "work at home," "flexible work," "telecommuting," etc.) have been in effect for Federal employees. The main legislative mandate for telework was established in 2000 (§ 359 of Public Law 106-346). This law states that "[e]ach executive agency shall establish a policy under which eligible employees of the agency may participate in telecommuting to the maximum extent possible without diminished employee performance." Associated language in the conference report for this legislation expanded on that requirement:

Each agency participating in the program shall develop criteria to be used in implementing such a policy and ensure that managerial, logistical, organizational, or other barriers to full implementation and successful functioning of the policy are removed. Each agency should also provide for adequate administrative, human resources, technical, and logistical support for carrying out the policy.

Further legislation (Public Law 108-199, Division B, § 627 of January 23, 2004, and Public Law 108-447, Division B, § 622 of December 8, 2004) followed this mandate with directives to certain agencies to increase telework participation in the workforce by specified amounts.

As part of this congressional mandate, OPM began to survey Federal agencies about telework in 2000. This Call for Telework Data collects information about agency programs and participation rates.

Joint OPM/GSA Support

OPM and the General Services Administration (GSA) work together to support telework in Federal agencies. The joint OPM/GSA Website www.telework.gov provides information to agencies, managers, and employees about how to effectively implement telework programs and arrangements. OPM and GSA also work directly with telework coordinators in each agency to provide guidance and assistance.

Definitions/Types of Telework

The terms “telework,” “telecommuting,” “flexible workplace,” “remote work,” “virtual work,” and “mobile work” are all used to refer to work done outside of the traditional on-site work environment. These terms are defined in different ways and used in different contexts to refer to anything from jobs that are completely “virtual” or “mobile,” to arrangements that enable employees to work from home a few days per week or per month.

OPM uses the term “telework” for reporting purposes and for all other activities related to policy and legislation. OPM defines telework as “work arrangements in which an employee regularly performs officially assigned duties at home or other work sites geographically convenient to the residence of the employee.”

Telework arrangements in the Federal Government are most often part-time rather than full-time, although full-time telework does exist. Agencies may, at their own discretion, define and use the types of telework that best fit their business needs. However, for purposes of reporting and judging progress towards meeting the legislative mandate, OPM will count employees whose telework frequency is in one of the following categories only:

- Regular/recurring at least 3 days per week
- 1 or 2 days per week
- Less often than once a week, but at least once a month

As defined by OPM, telework is not—

- Work extension: Many employees take work home with them. This is remote work, but it is not considered telework within the scope of the legislation.
- Mobile work: Some agencies have employees who, by the nature of their jobs, are generally off-site, and may even use their home as their “home base.” Because their

work requires this setup and they travel much of the time, they are not considered teleworkers. This is different from “hoteling” arrangements, in which frequent teleworkers use shared space when they are on-site.

Telework is not an employee right. Federal law requires agencies to have telework programs, but does not give individual employees a legal right to telework.

Sustaining a Successful Telework Program – A Manager’s Perspective

What’s in it for me?

Compliance with the Mandate

As described in **Legislative Background**, telework should be implemented to the maximum extent possible.

Human Capital Management Tool

Telework, like other flexibilities, can assist managers in attracting, recruiting, and retaining the best possible workforce. In addition, by decreasing employee commute times and other work/life stressors, telework can help make employees more effective in their jobs. Telework may also be used as a reasonable accommodation for disability.

Emergency Response

Integrating work fully into an organization’s operations and culture can help maintain critical functionality in the event of an emergency.

The Basics

Know Your Telework Coordinator

Each agency should designate a telework coordinator who acts as the key contact for policy and program questions. Managers should maintain frequent contact with their telework coordinator to ensure the agency’s policy and procedures are properly applied and to ensure they are aware of the full range of support and resources available to them.

Know Your Policy and Procedures

As detailed in §359 of Public Law 106-346, all agencies must have a telework policy. Managers should familiarize themselves and their employees with their agency’s policy to ensure they are in compliance with its requirements. Most agency policies will include additional procedures for establishing telework agreements, obtaining equipment, etc.

In addition, all agencies should have policies on information systems and technology security (see **Security**), and managers must ensure their equipment choices and telework agreements comply with this policy. Information security includes protection of sensitive “hard-copy” files and documents.

Participate in Training

OPM offers online telework training for employees and managers, which can be accessed via the joint OPM/GSA Website http://telework.gov/tools_and_resources/training/index.aspx. In addition, many agencies offer telework training, and telework coordinators are available to consult with managers.

Information technology security training, administered at the agency level, is mandatory (see **Security**), and managers must ensure teleworkers complete this training and understand their responsibilities in safeguarding work-related information.

How To Be an Effective Telework Manager

To comply with the legislation, managers must be committed to using telework to the fullest extent possible. Beyond the basic requirements outlined above, managerial skill, participation, and support can make telework a real asset to an organization. To effectively implement a telework program, managers should accomplish the following:

Determine Employee Eligibility

Generally, agencies have discretion to determine telework eligibility criteria for their employees. These criteria should be detailed in agency policy. Individual managers should assess who is and who is not eligible in their workgroup based on these eligibility guidelines and any applicable collective bargaining agreements. Some agencies may provide managers additional discretion in deciding whether to grant or deny a request to telework from an eligible employee, based on additional factors such as staffing or budget.

All employees are considered eligible for telework except the following:

- Employees whose positions require, on a daily basis (i.e., every work day), **direct handling of secure materials** or **on-site activity** that cannot be handled remotely or at an alternative worksite, such as face-to-face personal contact in some medical, counseling, or similar services; hands-on contact with machinery, equipment, vehicles, etc.; or other physical presence/site dependent activity, such as forest ranger or guard duty tasks; and
- Employees whose last performance rating of record (or its equivalent) is below *fully successful* (or the agency's equivalent) or whose conduct has resulted in disciplinary action within the last year. (NOTE: Agencies may require a rating of record higher than *fully successful* for eligibility, but must still report as eligible all employees rated *fully successful* or higher.)

Understand and Assess the Needs of the Workgroup

Telework is often implemented piecemeal, rather than strategically, as individuals request arrangements. This reactive approach carries the risk of raising fairness issues, with decisions about telework arrangements being made on a first-come, first-served basis. Telework should be implemented strategically, taking into account the needs and work of the group, rather than granting or denying telework requests one by one. Employees should participate in the process and may be asked to help formulate possible solutions to issues that may arise.

Create Signed Agreements

The teleworker and his or her manager should enter into a written agreement for every type of telework, whether the employee teleworks regularly or not. The parameters of this agreement are most often laid out by the agency policy and/or collective bargaining agreement, but should include certain key elements (see **How To Be an Effective Teleworker**). Most importantly, the agreement should be signed and dated by the manager. Managers should keep copies of all telework agreements on file.

Telework agreements are living documents and should be revisited by the manager and teleworker and re-signed regularly, preferably at least once a year. At a minimum, new telework agreements should be executed when a new employee/manager relationship is established.

OPM strongly recommends any individuals asked to telework in the case of a Continuity of Operations (COOP) event or a pandemic health crisis have a telework agreement in place that provides for such an occurrence. Such individuals also should practice teleworking on a regular basis as much as possible.

Base Denials on Business Reasons

Telework requests may be denied and telework agreements may be terminated. Telework is not an employee right, even if the employee is considered “eligible” by OPM standards and/or the individual agency standards.

Denial and termination decisions must be based on business needs or performance, not personal reasons. For example, a manager may deny a telework agreement if, due to staffing issues, an employee who otherwise has portable duties must provide on-site office coverage. In this case, and whenever applicable, the denial or termination should include information about when the employee might reapply, and also if applicable, what actions the employee should take to improve his or her chance of approval. Denials should be provided in a timely manner. Managers should also review the agency’s negotiated agreement(s) and telework policy to ensure they meet any applicable requirements.

Managers should provide affected employees (and keep copies of) signed written denials or terminations of telework agreements. These should include information about why the arrangement was denied or terminated. OPM tracks the numbers of agreements denied and/or terminated, as well as the reasons for such an action; therefore, copies should be given to the agency telework coordinator as well.

Bargaining unit employees may file a grievance about the denial or cancellation of a telework agreement through the negotiated grievance procedure.

Use Good Performance Management Practices

Managers often ask, “How do I know what my employees are doing when I can’t see them?” Performance standards for off-site employees are the same as performance standards for on-site employees. Management expectations of a teleworker’s performance should be clearly addressed in the telework agreement. As with on-site employees, teleworkers must, and can, be held accountable for the results they produce. Good performance management techniques practiced by a manager will mean a smooth, easy transition to a telework environment. Resources for performance management are available from OPM at www.opm.gov/perform.

Communicate Expectations

The telework agreement (see **How To Be an Effective Teleworker** for key elements) provides a framework for the discussion that needs to take place between the manager and the employee about expectations. For both routine and emergency telework, this discussion is important to ensure the manager and the employee understand each other's expectations around basic issues such as the following:

- How will the manager know the employee is present? (Signing in, signing off procedures may be needed.)
- How will the manager know the work is being accomplished?
- What technologies will be used to maintain contact?
- What equipment is the agency providing? What equipment is the teleworker providing?
- Who provides technical assistance in the event of equipment disruption?
- What will the weekly/monthly telework schedule be? How will the manager and co-workers be kept updated about the schedule? Do changes need to be pre-approved?
- What will the daily telework schedule be? Will the hours be the same as in the main office, or will they be different?
- What are the physical attributes of the telework office, and do they conform to basic safety standards? (Use a safety checklist.)
- What are the expectations for availability (phone, e-mail, etc.)?
- What is the expectation regarding the amount of notice (if any) given for reporting to the official worksite, and how will such notice be provided?
- How is a telework agreement terminated by management or an employee?

Facilitate Communication With All Members of the Workgroup

Teleworking and non-teleworking employees must understand expectations regarding telework arrangements, including coverage, communication, and responsibilities. Although individual teleworkers must take responsibility for their own availability and information sharing, managers should ensure methods are in place to maintain open communication across the members of a workgroup.

Remain Equitable in Assigning Work and Rewarding Performance

Managers should avoid distributing work based on "availability" as measured by physical presence, and avoid the pitfall of assuming someone who is present and looks busy is actually accomplishing more work than someone who is not on-site. Good performance management practices are essential for telework to work effectively and equitably.

Make Good Decisions About Equipment

In Federal Management Regulation (FMR) Bulletin 2006-B3, Guidelines for Alternative Workplace Arrangements (a link is available at www.telework.gov), GSA provides guidelines for the equipment and support an agency may provide teleworkers. Generally, decisions are made by the agency or by individual managers regarding the ways in which teleworkers should be equipped. Managers should familiarize themselves with these guidelines and also with their agency's policy on equipment. Within those constraints, the challenge for managers is finding the right balance of budget, security, and effectiveness. Factors to consider include technology needs based on the work of the employee, agency security requirements, and budget constraints.

Practice, Practice, Practice

The success of an organization's telework program depends on regular, routine use. Experience is the only way to enable managers, employees, IT support, and other stakeholders to work through any technology, equipment, communications, workflow, and associated issues that may inhibit the transparency of remote work. Individuals expected to telework in an emergency situation should, with some frequency, telework under non-emergency circumstances as well.

The Bottom Line

Managers MUST—

- Implement routine telework in their organization to the fullest extent possible
- Treat employees equitably and fairly in implementing telework in their organization
- Identify eligible and ineligible employees using established agency criteria
- Include telework in COOP and other emergency response planning

Managers MAY NOT—

- Under normal circumstances, require that an employee work from home
- Terminate a telework agreement for reasons other than business or performance reasons

Managers MAY—

- Require an employee to work at an alternative worksite (e.g., a telework center) within the employee's commuting area
- Terminate a telework agreement for business reasons, e.g., an employee's poor performance or a change in the nature of the work

Sustaining a Successful Telework Arrangement – An Employee's Perspective

What's in it for me?

Work/life Balance

Telework gives employees more flexibility in meeting personal and professional responsibilities.

Stress Reduction

Telework can help make life less stressful overall by reducing commuting time and adding to discretionary time, thus reducing commuting stress.

Freedom From Office Distractions

Offices can be busy places, especially in environments where employees work in cubicles. Distractions are plentiful. Many employees find they are able to focus and be more productive when they telework.

Engagement

When employees feel they have greater control over their work, they tend to feel more committed to their organizations.

The Basics

Know Your Telework Coordinator

All agencies must designate a telework coordinator who acts as the key contact for policy and program questions. Employees should maintain contact with their telework coordinator for support and assistance as well as to ensure they follow the agency's policy and procedures.

Know Your Agency's Policy and Procedures

As required by Public Law 106-346, § 359, all agencies must have a telework policy. Employees should familiarize themselves with this policy to ensure they are in compliance with its requirements. Most agency policies will include procedures to be followed for establishing telework arrangements, obtaining equipment, etc.

In addition, employees need to work with their managers and information technology (IT) support to ensure their equipment choices and telework agreements comply with their agency's policy on information systems and technology security (see **Security**). This includes the protection of sensitive files and documents needed for work.

Participate in Training

OPM offers online teleworker training, which can be accessed via the joint OPM/GSA Website at http://telework.gov/tools_and_resources/training/index.aspx. In addition, many agencies offer various types of training. Some training may be required for participation in a telework program.

Information technology security training, administered at the agency level, is mandatory (see **Security**). Teleworkers must complete this training and understand their responsibilities in safeguarding work-related information.

How To Be an Effective Teleworker

Conduct an Honest Self-Assessment

A successful telework arrangement starts with a good self-assessment. Employees should consider the following factors in making an honest determination about their telework capabilities:

- Sufficient portable work for the amount of telework being proposed
- Ability to work independently, without close supervision
- Comfort with the technologies, if any, needed to telework
- Good communication with manager, co-workers, and customers that will enable a relatively seamless transition from on-site to off-site
- Telework office space conducive to getting the work done
- Dependent care (i.e., child care, elder care, or care of any other dependent adults) arrangements in place

- Ability to be flexible about the telework arrangement to respond to the needs of the manager, the workgroup, and the workload

Create a Good Telework Agreement

A successful telework arrangement also requires a strong foundation. No matter how frequently or infrequently an employee intends to telework, a written agreement should be executed between the employee and manager. Elements of this agreement should include the following:

- Location of the telework office (e.g., home, telework center, other)
- Equipment inventory – what the employee is supplying, what the agency is providing, and if applicable, what the telework center is providing
- In general, the job tasks to be performed while teleworking
- Telework schedule
- Telework contact information (e.g., the phone number to use on the telework day)
- Safety checklist – certifying the home office meets certain standards (see **Safety**)
- Expectations for emergency telework (specify whether the employee is expected to telework in the case of a COOP event, pandemic health crisis, shutdown of agency operations, etc.)

Telework agreements need to be updated as circumstances change (e.g., if the telework schedule changes). The manager and teleworker should work together to evaluate the arrangement periodically, make changes in the agreement as necessary, and re-sign the document. In the first year this may happen within a few months; thereafter, perhaps annually.

Safeguard Information and Data

Employees must take responsibility for the security of the data and other information they handle while teleworking, as described in **Security**. Employees should—

- Be familiar with, understand, and comply with their agency's information security policies;
- Participate in agency information security training; and
- Maintain security of any relevant materials, including files, correspondence, and equipment, in addition to following security protocols for remote connectivity. Depending on the sensitivity of the information being handled, the home office may need to include security measures such as locked file cabinets, similar to what may be used in the worksite

Plan the Work

Employees who telework should assess the portability of their work and the level of technology available at the remote site as they prepare to telework. Employees will need to plan their telework days to be as productive as possible by considering the following questions:

- What files or other documents will I need to take with me when I leave my regular workplace the day before teleworking?
- What equipment will I need to take?
- Who needs to be notified that I will be teleworking?
- What other steps should I take before I leave my office? (e.g., forwarding the phone)
- In the case of emergency telework, what should I have available at all times at my home office or, if applicable, a telework center, to enable me to be functional without coming on-site to retrieve materials?

Manage Expectations and Communication

Managers are ultimately responsible for the effective functioning of the workgroup. Nevertheless, teleworkers should help manage the group's expectations and their own communication in order to avoid any negative impact from their arrangement. Issues that should be addressed include the following:

- Backup: Even with very portable work there are inevitably instances where physical presence is required and a co-worker may need to step in. Co-worker backup should be planned, it should not be onerous, and it should be reciprocal. Cross-training of staff has broad organizational benefits and should be a management priority.
- On-the-spot assistance: Teleworkers may occasionally need someone who is physically in the main office to assist them (e.g., to fax a document or look up information). Again, these arrangements should not be unduly burdensome; a "buddy system" between teleworkers may be the least disruptive solution.
- Communication with manager: The manager must be kept apprised of the teleworker's schedule, how to make contact with the teleworker, and the status of all pending work.
- Communication with co-workers: Co-workers must be informed about the appropriate handling of telephone calls or other communications that are the teleworker's responsibility.

The Bottom Line

Teleworkers MUST—

- Comply with the security and telework policies of their agency
- Take responsibility for ensuring the success of their arrangement
- Notify the manager of any changes in their situation that may affect the arrangement

Teleworkers MAY NOT—

- Assume a telework arrangement is permanent
- Use telework as a substitute for child or other dependent care

Teleworkers MAY—

- Use appropriate grievance procedures if they believe their telework request or agreement was wrongfully denied or terminated. Telework requests or agreements may be denied or terminated only for business reasons, and managers must provide written justification to the affected employee.

Safety

Teleworkers must address issues of their own personal safety to be effective while teleworking from a home office. This is not an issue in telework centers, where appropriate workstations are provided.

Government employees causing or suffering work-related injuries and/or damages at the alternative worksite (home, telework center, or other location) are covered by the Military Personnel and Civilian Employees Claims Act, the Federal Tort Claims Act, or the Federal Employees' Compensation Act (workers' compensation), as appropriate.

Manager Safety Responsibilities

- Review safety checklist with teleworker.
- Depending on agency policy, managers may have the authority to visit home offices, with advance notice to the teleworker.

Teleworker Safety Responsibilities (for home-based telework)

- Provide appropriate telework space, with ergonomically correct chair, desk, and computer equipment.
- Complete safety checklist certifying the space is free from hazards. This checklist is not legally binding, but details management expectations and, if signed, assumes compliance.
- Immediately report any work-related accident occurring at the telework site and provide the supervisor with all medical documentation related to the accident. It may be necessary for an agency representative to access the home office to investigate the report.

Security

(Note: This guidance is subject to change to incorporate pertinent information from the June 23, 2006, Office of Management and Budget (OMB) memo, "Protection of Sensitive Agency Information" <http://www.whitehouse.gov/omb/memoranda/fy2006/m06-16.pdf>.)

Federal employees and their managers are responsible for the security of Federal Government property and information, regardless of their work location. Agency security policies do not change and should be enforced at the same rigorous level when employees telework as when they are in the office.

The Federal Information Security Management Act of 2002 (FISMA) defines information security as protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

- (A) integrity, which means guarding against improper information modification or destruction and includes ensuring information nonrepudiation and authenticity;
- (B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and
- (C) availability, which means ensuring timely and reliable access to and use of information.

As in the main office, security measures should cover not only information systems and technology, but all aspects of the information systems used by the employee, including paper files, other media, storage devices, and telecommunications equipment (e.g., laptops, PDAs, and cell phones). Employees who telework from home need to keep Government property and information safe, secure, and separated from their personal property and information.

Agencies managing or operating records systems are required by the Privacy Act of 1974 and other relevant laws and regulations to issue rules for maintaining the security of information contained in those records, whether the information is maintained in electronic or paper form. Managers and employees must follow these rules whenever they are accessing this information,

whether they are working from home, at another remote location, or at their regular duty station. For example, OPM regulates access and use of Government personnel records as follows:

Section 293.106(a) of title 5, Code of Federal Regulations, mandates that “[a]ll persons whose official duties require access to and use of personnel records be responsible and accountable for safeguarding those records and for ensuring that the records are secured whenever they are not in use or under the direct control of authorized persons. Generally, personnel records should be held, processed, or stored only where facilities and conditions are adequate to prevent unauthorized access.”

Under 5 CFR 293.108, “Office and agency employees whose official duties involve personnel records shall be sensitive to individual rights to personal privacy and shall not disclose information from any personnel record unless disclosure is part of their official duties or required by executive order, regulation, or statute (e.g., required by the Freedom of Information Act, 5 U.S.C. 552).” Also, “[a]ny Office or agency employee who makes a disclosure of personnel records knowing that such disclosure is unauthorized, or otherwise knowingly violates these regulations, shall be subject to disciplinary action and may also be subject to criminal penalties where the records are subject to the Privacy Act (5 U.S.C. 552a).”

Each Executive agency must develop a Federal information systems security awareness and training plan and provide role-specific security training to employees as required by 5 CFR 930.301. The regulations advise agencies to follow the guidance published by the National Institute of Standards and Technology (NIST).

NIST publications include Special Publication 800-50, “Building an Information Technology Security Awareness and Training Program,” which provides a blueprint for developing agency-specific security awareness and training materials. NIST advises agencies that users of information systems must—

- Understand and comply with agency security policies and procedures;
- Be appropriately trained in the rules of behavior for the systems and applications to which they have access;
- Work with management to meet training needs;
- Keep software/applications updated with security patches; and
- Be aware of actions they can take to better protect their agency’s information. These actions include, but are not limited to, proper password usage, data backup, proper antivirus protection, reporting any suspected incidents or violations of security policy, and following rules established to avoid social engineering attacks and rules to deter the spread of spam or viruses and worms.

Special Publication 800-50 recommends addressing these topics in agency security awareness campaigns. Other topics may include accessing unknown email and attachments, dealing with spam, protecting against “shoulder surfing (i.e., someone reading a document or a computer screen from behind the user),” physical protection of data (e.g., from water, fire, dust or dirt, physical access), inventory and property transfer, personal use of systems at work and home, use of encryption, transmission of sensitive/confidential information, laptop security, and personally-owned systems and software.

In Special Publication 800-46, “Security for Telecommuting and Broadband Communications,” NIST helps Federal agencies address security issues by providing recommendations on

securing a variety of applications, protocols, and networking architectures to be used by teleworkers. NIST recommendations encompass the following five security principles:

- All home networks connected to the Internet via a broadband connection should have some firewall device installed.
- Web browsers should be configured to limit vulnerability to intrusion.
- Operating system configuration options should be selected to increase security.
- Selection of wireless and other home networking technologies should be in accordance with security goals.
- Federal agencies should provide teleworking users with guidance on selecting appropriate technologies, software, and tools consistent with the agency network and with agency security policies.

Complete texts of these and other NIST publications are available at <http://csrc.nist.gov/publications/nistpubs/>.

Manager Security Responsibilities

- Thoroughly review all telework agreements to ensure they are in compliance with agency information security policies.
- Ensure employees receive agency information systems security training.
- Work with employees to ensure they fully understand and have the technical expertise to comply with agency requirements.
- Invest in technology and equipment that can support success.
- Work with employees to develop secure systems for potentially sensitive documents and other materials.
- Track removal and return of potentially sensitive materials, such as personnel records.
- Enforce personal privacy requirements for records.

Teleworker Security Responsibilities

- Participate in agency information systems security training.
- Achieve sufficient technical proficiency to implement the required measures.
- Provide a high level of security to any personal or private information accessed at the telework site or transported between locations.
- Remain sensitive to individual rights to personal privacy.
- Comply with agency policies and with any additional requirements spelled out in the telework agreement.

Emergency Response Telework: Continuity of Operations (COOP)

Telework should be part of all agency emergency planning. Management must be committed to implementing remote work arrangements as broadly as possible to take full advantage of the potential of telework for this purpose and ensure that—

- Equipment, technology, and technical support have been tested
- Employees are comfortable with technology and communications methods
- Managers are comfortable managing a distributed workgroup

In addition, agencies and management should consider investing in and using—

- Teleconferencing, videoconferencing, and other technologies that enable multi-channel communication
- Paperless systems

Continuity of Operations (COOP)

The Federal Emergency Management Agency's Federal Continuity Directive (FDC) 1 defines COOP planning as “an effort within individual agencies to ensure they can continue to perform their Mission Essential Functions (MEFs) and Primary Mission Essential Functions (PMEFs) during a wide range of emergencies, including localized acts of nature, accidents, and technological or attack-related emergencies.

Telework can play a vital role in helping agencies preserve their essential functionality in this environment.

Manager COOP Responsibilities

- Understand the agency COOP plan and management roles in executing the plan.
- Notify employees designated as essential personnel for COOP.
- Communicate expectations both to COOP and non-COOP employees regarding what steps they need to take in case of an emergency.
- Establish communication processes to notify COOP and non-COOP employees of COOP status in the event of an emergency.
- Integrate COOP expectations into telework agreements as appropriate.
- Allow essential personnel who might telework in case of an emergency to telework regularly to ensure functionality.

Teleworker COOP Responsibilities

- Maintain a current telework agreement detailing any COOP responsibilities, as appropriate.
- Practice telework regularly to ensure effectiveness.
- Be familiar with agency and workgroup COOP plans and individual expectations during COOP events.

Pandemic

The National Strategy for Pandemic Influenza Implementation Plan references the benefits of using telework to slow the spread of disease by keeping face-to-face contact to a minimum (often referred to as “social distancing”) while maintaining operations as close to normal as possible. Telework can also help agencies retain functionality as infrastructure issues and other challenges make the main worksite difficult to access.

The key to successful use of telework in the event of a pandemic health crisis is an effective routine telework program. As many employees as possible should have telework capability (i.e., current telework arrangements, connectivity, and equipment commensurate with their work needs and frequent enough opportunities to telework to ensure all systems have been tested and are known to be functional). This may entail creative thinking beyond current implementation of telework, drawing in employees who otherwise might not engage in remote access and ensuring their effectiveness as a distributed workforce.

Manager Pandemic Responsibilities

- Implement telework to the greatest extent possible in the workgroup so systems are in place to support successful remote work in an emergency.
- Communicate expectations to all employees regarding their roles and responsibilities in relation to remote work in the event of a pandemic health crisis.
- Establish communication processes to notify employees of activation of this plan.
- Integrate pandemic health crisis response expectations into telework agreements.
- With the employee, assess requirements for working at home (supplies and equipment needed for an extended telework period).
- Determine how all employees who may telework will communicate with one another and with management to accomplish work.
- Identify how time and attendance will be maintained.

Teleworker Pandemic Responsibilities

- Maintain current telework agreement specifying pandemic health crisis telework responsibilities, as appropriate.
- Perform all duties assigned by management, even if they are outside usual or customary duties.
- Practice telework regularly to ensure effectiveness.
- Be familiar with agency and workgroup pandemic health crisis plans and individual expectations for telework during a pandemic health crisis.

References

Federal Employee's Emergency Guide
Office of Personnel Management
<http://www.opm.gov/emergency/PDF/EmployeesGuide.pdf>

Federal Information Security Management Act (FISMA)
<http://csrc.nist.gov/groups/SMA/fisma/index.html>

Federal Management Regulation (FMR) Bulletin 2006-B3
Guidelines for Alternative Workplace Arrangements
[Link to FMR Bulletin No. 2006-B3](#)

Federal Manager's/Decision Maker's Emergency Guide
Office of Personnel Management
<http://www.opm.gov/emergency/PDF/ManagersGuide.pdf>

Federal Continuity Directive (FDC) 1
<http://www.fema.gov/pdf/about/offices/fcd1.pdf>

GAO-03-679, July 2003
Report to the Chairman, Committee on Government Reform, House of Representatives
Human Capital: Further Guidance, Assistance, and Coordination Can Improve Federal Telework Efforts
<http://www.gao.gov/new.items/d03679.pdf>

GAO-06-713, May 2006
Report to the Chairman, Committee on Government Reform, House of Representatives
Continuity of Operations: Selected Agencies Could Improve Planning for Use of Alternate Facilities and Telework during Disruptions
<http://www.gao.gov/new.items/d06713.pdf>

National Strategy for Pandemic Influenza Implementation Plan
<http://www.whitehouse.gov/homeland/pandemic-influenza.html>

NIST Special Publication 800-46 Revision 1
Guide to Enterprise Telework and Remote Access Security
<http://csrc.nist.gov/publications/nistpubs/800-46-rev1/sp800-46r1.pdf>

Public Law 111–292
111th Congress

An Act

To require the head of each executive agency to establish and implement a policy under which employees shall be authorized to telework, and for other purposes.

Dec. 9, 2010

[H.R. 1722]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Telework Enhancement Act of 2010”.

Telework
Enhancement
Act of 2010.
5 USC 101 note.

SEC. 2. TELEWORK.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by inserting after chapter 63 the following:

“CHAPTER 65—TELEWORK

“Sec.
“6501. Definitions.
“6502. Executive agencies telework requirement.
“6503. Training and monitoring.
“6504. Policy and support.
“6505. Telework Managing Officer.
“6506. Reports.

“§ 6501. Definitions

5 USC 6501.

“In this chapter:

“(1) EMPLOYEE.—The term ‘employee’ has the meaning given that term under section 2105.

“(2) EXECUTIVE AGENCY.—Except as provided in section 6506, the term ‘executive agency’ has the meaning given that term under section 105.

“(3) TELEWORK.—The term ‘telework’ or ‘teleworking’ refers to a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee’s position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.

“§ 6502. Executive agencies telework requirement

5 USC 6502.

“(a) TELEWORK ELIGIBILITY.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this chapter, the head of each executive agency shall—

Deadline.

“(A) establish a policy under which eligible employees of the agency may be authorized to telework;

“(B) determine the eligibility for all employees of the agency to participate in telework; and

Determination.

Notification.

“(C) notify all employees of the agency of their eligibility to telework.

“(2) LIMITATION.—An employee may not telework under a policy established under this section if—

“(A) the employee has been officially disciplined for being absent without permission for more than 5 days in any calendar year; or

“(B) the employee has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

“(b) PARTICIPATION.—The policy described under subsection (a) shall—

“(1) ensure that telework does not diminish employee performance or agency operations;

Contracts.

“(2) require a written agreement that—

“(A) is entered into between an agency manager and an employee authorized to telework, that outlines the specific work arrangement that is agreed to; and

“(B) is mandatory in order for any employee to participate in telework;

“(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

“(4) except in emergency situations as determined by the head of an agency, not apply to any employee of the agency whose official duties require on a daily basis (every work day)—

“(A) direct handling of secure materials determined to be inappropriate for telework by the agency head; or

“(B) on-site activity that cannot be handled remotely or at an alternate worksite; and

“(5) be incorporated as part of the continuity of operations plans of the agency in the event of an emergency.

5 USC 6503.

“§ 6503. Training and monitoring

“(a) IN GENERAL.—The head of each executive agency shall ensure that—

“(1) an interactive telework training program is provided to—

“(A) employees eligible to participate in the telework program of the agency; and

“(B) all managers of teleworkers;

“(2) except as provided under subsection (b), an employee has successfully completed the interactive telework training program before that employee enters into a written agreement to telework described under section 6502(b)(2);

“(3) teleworkers and nonteleworkers are treated the same for purposes of—

“(A) periodic appraisals of job performance of employees;

“(B) training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

“(C) work requirements; or

“(D) other acts involving managerial discretion; and

“(4) when determining what constitutes diminished employee performance, the agency shall consult the performance management guidelines of the Office of Personnel Management.

“(b) TRAINING REQUIREMENT EXEMPTIONS.—The head of an executive agency may provide for an exemption from the training requirements under subsection (a), if the head of that agency determines that the training would be unnecessary because the employee is already teleworking under a work arrangement in effect before the date of enactment of this chapter.

“§ 6504. Policy and support

5 USC 6504.

“(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

“(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

“(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities;

“(2) assist each agency in establishing appropriate qualitative and quantitative measures and teleworking goals; and

“(3) consult with—

“(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies;

“(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, equipment, and dependent care; and

“(C) the National Archives and Records Administration on policy and policy guidance for telework in the areas of efficient and effective records management and the preservation of records, including Presidential and Vice-Presidential records.

“(c) SECURITY GUIDELINES.—

“(1) IN GENERAL.—The Director of the Office of Management and Budget, in coordination with the Department of Homeland Security and the National Institute of Standards and Technology, shall issue guidelines not later than 180 days after the date of the enactment of this chapter to ensure the adequacy of information and security protections for information and information systems used while teleworking.

Deadline.

“(2) CONTENTS.—Guidelines issued under this subsection shall, at a minimum, include requirements necessary to—

“(A) control access to agency information and information systems;

“(B) protect agency information (including personally identifiable information) and information systems;

“(C) limit the introduction of vulnerabilities;

“(D) protect information systems not under the control of the agency that are used for teleworking;

“(E) safeguard wireless and other telecommunications capabilities that are used for teleworking; and

“(F) prevent inappropriate use of official time or resources that violates subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch by viewing, downloading, or exchanging pornography, including child pornography.

“(d) CONTINUITY OF OPERATIONS PLANS.—

“(1) INCORPORATION INTO CONTINUITY OF OPERATIONS PLANS.—Each executive agency shall incorporate telework into the continuity of operations plan of that agency.

“(2) CONTINUITY OF OPERATIONS PLANS SUPERSEDE TELEWORK POLICY.—During any period that an executive agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

“(e) TELEWORK WEBSITE.—The Office of Personnel Management shall—

“(1) maintain a central telework website; and

“(2) include on that website related—

“(A) telework links;

“(B) announcements;

“(C) guidance developed by the Office of Personnel Management; and

Deadline.

“(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

Deadline.

“(f) POLICY GUIDANCE ON PURCHASING COMPUTER SYSTEMS.—Not later than 120 days after the date of the enactment of this chapter, the Director of the Office of Management and Budget shall issue policy guidance requiring each executive agency when purchasing computer systems, to purchase computer systems that enable and support telework, unless the head of the agency determines that there is a mission-specific reason not to do so.

5 USC 6505.

“§ 6505. Telework Managing Officer

“(a) DESIGNATION.—The head of each executive agency shall designate an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

“(b) DUTIES.—The Telework Managing Officer shall—

“(1) be devoted to policy development and implementation related to agency telework programs;

“(2) serve as—

“(A) an advisor for agency leadership, including the Chief Human Capital Officer;

“(B) a resource for managers and employees; and

“(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

“(3) perform other duties as the applicable delegating authority may assign.

“(c) STATUS WITHIN AGENCY.—The Telework Managing Officer of an agency shall be a senior official of the agency who has direct access to the head of the agency.

“(d) RULE OF CONSTRUCTION REGARDING STATUS OF TELEWORK MANAGING OFFICER.—Nothing in this section shall be construed to prohibit an individual who holds another office or position in

an agency from serving as the Telework Managing Officer for the agency under this chapter.

“§ 6506. Reports

5 USC 6506.

“(a) DEFINITION.—In this section, the term ‘executive agency’ shall not include the Government Accountability Office.

“(b) REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT.—

“(1) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this chapter and on an annual basis thereafter, the Director of the Office of Personnel Management, in consultation with Chief Human Capital Officers Council, shall—

“(A) submit a report addressing the telework programs of each executive agency to—

“(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(ii) the Committee on Oversight and Government Reform of the House of Representatives; and

“(B) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

“(2) CONTENTS.—Each report submitted under this subsection shall include—

“(A) the degree of participation by employees of each executive agency in teleworking during the period covered by the report (and for each executive agency whose head is referred to under section 5312, the degree of participation in each bureau, division, or other major administrative unit of that agency), including—

“(i) the total number of employees in the agency;

“(ii) the number and percent of employees in the agency who are eligible to telework; and

“(iii) the number and percent of eligible employees in the agency who are teleworking—

“(I) 3 or more days per pay period;

“(II) 1 or 2 days per pay period;

“(III) once per month; and

“(IV) on an occasional, episodic, or short-term basis;

“(B) the method for gathering telework data in each agency;

“(C) if the total number of employees teleworking is 10 percent higher or lower than the previous year in any agency, the reasons for the positive or negative variation;

“(D) the agency goal for increasing participation to the extent practicable or necessary for the next reporting period, as indicated by the percent of eligible employees teleworking in each frequency category described under subparagraph (A)(iii);

“(E) an explanation of whether or not the agency met the goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers to maximizing telework opportunities for the next reporting period;

“(F) an assessment of the progress each agency has made in meeting agency participation rate goals during the reporting period, and other agency goals relating to telework, such as the impact of telework on—

“(i) emergency readiness;
 “(ii) energy use;
 “(iii) recruitment and retention;
 “(iv) performance;
 “(v) productivity; and
 “(vi) employee attitudes and opinions regarding telework; and
 “(G) the best practices in agency telework programs.
 “(c) COMPTROLLER GENERAL REPORTS.—

“(1) REPORT ON GOVERNMENT ACCOUNTABILITY OFFICE TELEWORK PROGRAM.—

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of this chapter and on an annual basis thereafter, the Comptroller General shall submit a report addressing the telework program of the Government Accountability Office to—

“(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(ii) the Committee on Oversight and Government Reform of the House of Representatives.

“(B) CONTENTS.—Each report submitted by the Comptroller General shall include the same information as required under subsection (b) applicable to the Government Accountability Office.

“(2) REPORT TO CONGRESS ON OFFICE OF PERSONNEL MANAGEMENT REPORT.—Not later than 6 months after the submission of the first report to Congress required under subsection (b), the Comptroller General shall review that report required under subsection (b) and submit a report to Congress on the progress each executive agency has made towards the goals established under section 6504(b)(2).

“(d) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

“(1) IN GENERAL.—Each year the Chief Human Capital Officer of each executive agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Officers Council on agency management efforts to promote telework.

“(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Officers Council shall—

“(A) review the reports submitted under paragraph (1);

“(B) include relevant information from the submitted reports in the annual report to Congress required under subsection (b); and

“(C) use that relevant information for other purposes related to the strategic management of human capital.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF CHAPTERS.—The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 63 the following:

65. Telework 6501

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2003.—Section 623 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003

(Public Law 108–7; 117 Stat. 103) is amended by striking “designate a ‘Telework Coordinator’ to be” and inserting “designate a Telework Managing Officer to be”. 5 USC 6120 note.

(B) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking “designate a ‘Telework Coordinator’ to be” and inserting “designate a Telework Managing Officer to be”. 5 USC 6120 note.

(C) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking “designate a ‘Telework Coordinator’ to be” and inserting “designate a Telework Managing Officer to be”. 5 USC 6120 note.

(D) APPROPRIATIONS ACT, 2006.—Section 617 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2340) is amended by striking “maintain a ‘Telework Coordinator’ to be” and inserting “maintain a Telework Managing Officer to be”. 5 USC 6120 note.

SEC. 3. AUTHORITY FOR TELEWORK TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5710 the following:

“§ 5711. Authority for telework travel expenses test programs 5 USC 5711.

“(a) Except as provided under subsection (f)(1), in this section, the term ‘appropriate committees of Congress’ means— Definition.

“(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(2) the Committee on Oversight and Government Reform of the House of Representatives.

“(b)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an employing agency may pay through the proper disbursing official any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter for employees participating in a telework program. Under an approved test program, an agency may provide an employee with the option to waive any payment authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

“(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

“(3) Under any test program, if an agency employee voluntarily relocates from the pre-existing duty station of that employee, the Administrator may authorize the employing agency to establish a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by that agency.

	<p>“(4) Nothing in this section is intended to limit the authority of any agency to conduct test programs.</p>
Deadline.	<p>“(c) The Administrator shall transmit a copy of any test program approved by the Administrator under this section, and the rationale for approval, to the appropriate committees of Congress at least 30 days before the effective date of the program.</p>
Reports. Deadline.	<p>“(d)(1) An agency authorized to conduct a test program under subsection (b) shall provide to the Administrator, the Telework Managing Officer of that agency, and the appropriate committees of Congress a report on the results of the program not later than 3 months after completion of the program.</p> <p>“(2) The results in a report described under paragraph (1) may include—</p> <ul style="list-style-type: none"> “(A) the number of visits an employee makes to the pre-existing duty station of that employee; “(B) the travel expenses paid by the agency; “(C) the travel expenses paid by the employee; or “(D) any other information the agency determines useful to aid the Administrator, Telework Managing Officer, and Congress in understanding the test program and the impact of the program. <p>“(e) No more than 10 test programs under this section may be conducted simultaneously.</p>
Definition.	<p>“(f)(1) In this subsection, the term ‘appropriate committee of Congress’ means—</p> <ul style="list-style-type: none"> “(A) the Committee on Homeland Security and Governmental Affairs of the Senate; “(B) the Committee on Oversight and Government Reform of the House of Representatives; “(C) the Committee on the Judiciary of the Senate; and “(D) the Committee on the Judiciary of the House of Representatives. <p>“(2) The Patent and Trademark Office shall conduct a test program under this section, including the provision of reports in accordance with subsection (d)(1).</p> <p>“(3) In conducting the program under this subsection, the Patent and Trademark Office may pay any travel expenses of an employee for travel to and from a Patent and Trademark Office worksite or provide an employee with the option to waive any payment authorized or required under this subchapter, if—</p> <ul style="list-style-type: none"> “(A) the employee is employed at a Patent and Trademark Office worksite and enters into an approved telework arrangement; “(B) the employee requests to telework from a location beyond the local commuting area of the Patent and Trademark Office worksite; and “(C) the Patent and Trademark Office approves the requested arrangement for reasons of employee convenience instead of an agency need for the employee to relocate in order to perform duties specific to the new location. <p>“(4)(A) The Patent and Trademark Office shall establish an oversight committee comprising an equal number of members representing management and labor, including representatives from each collective bargaining unit.</p>
Procedures.	<p>“(B) The oversight committee shall develop the operating procedures for the program under this subsection to—</p>

“(i) provide for the effective and appropriate functioning of the program; and

“(ii) ensure that—

“(I) reasonable technological or other alternatives to employee travel are used before requiring employee travel, including teleconferencing, videoconferencing or internet-based technologies;

“(II) the program is applied consistently and equitably throughout the Patent and Trademark Office; and

“(III) an optimal operating standard is developed and implemented for maximizing the use of the telework arrangement described under paragraph (2) while minimizing agency travel expenses and employee travel requirements.

“(5)(A) The test program under this subsection shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

“(B) The Director of the Patent and Trademark Office shall—

“(i) prepare an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program; and

“(ii) before the test program is implemented, submit the analysis and criteria to the Administrator of General Services and to the appropriate committees of Congress.

“(C) With respect to an employee of the Patent and Trademark Office who voluntarily relocates from the pre-existing duty station of that employee, the operating procedures of the program may include a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by the Office.

“(g) The authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Telework Enhancement Act of 2010.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5710 the following:

“5711. Authority for telework travel expenses test programs.”

SEC. 4. TELEWORK RESEARCH.

(a) RESEARCH BY OPM ON TELEWORK.—The Director of the Office of Personnel Management shall—

(1) research the utilization of telework by public and private sector entities that identify best practices and recommendations for the Federal Government;

(2) review the outcomes associated with an increase in telework, including the effects of telework on energy consumption, job creation and availability, urban transportation patterns, and the ability to anticipate the dispersal of work during periods of emergency; and

(3) make any studies or reviews performed under this subsection available to the public.

(b) USE OF CONTRACT TO CARRY OUT RESEARCH.—The Director of the Office of Personnel Management may carry out subsection (a) under a contract entered into by the Director using competitive procedures under section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

Cost analysis.

Criteria.

Expiration date.

5 USC 6501 note.

(c) **USE OF OTHER FEDERAL AGENCIES.**—The heads of Federal agencies with relevant jurisdiction over the subject matters in subsection (a)(2) shall work cooperatively with the Director of the Office of Personnel Management to carry out that subsection, if the Director determines that coordination is necessary to fulfill obligations under that subsection.

Approved December 9, 2010.

LEGISLATIVE HISTORY—H.R. 1722:

HOUSE REPORTS: No. 111–474 (Comm. on Oversight and Government Reform).
CONGRESSIONAL RECORD, Vol. 156 (2010):

May 5, 6, considered and failed House.

July 14, considered and passed House.

Sept. 29, considered and passed Senate, amended.

Nov. 18, House concurred in Senate amendment.



DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY
TELEWORK APPLICATION AND AGREEMENT

1. Check one of the following: ☒ New Agreement ☐ Change in Existing Agreement

2. Employee Name Max Meindl	3. Organization FEMA	4. Position Title Emergency MGT Specialist	5. Series and Grade 11-1
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6. Office Telephone No. 202-374-9426	7. Supervisor (Name/Title) Kirk Shadowens
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8. Type of Telework: ☐ Regular (Core) ☒ Situational (Episodic)

Part I - Completion of this agreement indicates that:

1. The employee's telework arrangement begins on 07/24/2018
(date)

2. The employee's official tour of duty and location are listed below.

DAY	Telework Days (Week 1)	Start and End Times		Telework Days (Week 2)	Start and End Times	
Monday						
Tuesday	Home Residence (07/24/18)	12:30	15:30			
Wednesday						
Thursday						
Friday						

3. Employee volunteers to participate in the program and to adhere to the applicable guidelines and policies. Agency concurs with employee participation and agrees to the applicable guidelines and policies.

4. Employee understands that FEMA may require participating employee to work from their telework site, e.g., home, satellite office, or other location, during periods of Unscheduled Telework authorization due to area closures, dismissals, unforeseen emergencies or other reasons as authorized by the Supervisor.

5. Management reserves the right to alter the employee's established telework schedule to accommodate peak workload office demands or for any other official purpose with advance notifications.

6. Employee's official tour of duty must include at least a 30-minute uncompensated lunch.

7. Employee's official duty station is: Houston, TX (City and State) for purposes such as pay, travel,

etc. The location at which the employee is designated to work (i. 5 E Austin, Bellville, TX 77418
e., alternate work location) while not at the official duty station is:

The phone number of the alternate worksite is 202-374-9426

8. Employee understands requirements for an adequate and safe office space and that these requirements must be met.

9. An employee approved for telework is required to satisfactorily complete all assigned work, consistent with the approach adopted for all other employees in the work group.

10. The employee will regularly meet/speak with the supervisor to receive assignments and to review completed work as necessary or appropriate. The employee's job performance will be evaluated on criteria and milestones determined by the supervisor with input from employee.

11. Employee's Time and Attendance (WebTA) for all official duty time spent in a Teleworking status will be recorded using the proper Telework code. The supervisor and employee are responsible for ensuring the accuracy of time and attendance reported for the employee's work at the official duty station and the alternative workplace. The supervisor agrees to certify biweekly the employee's Time and Attendance Daily Report for hours worked. The employee's timekeeper will retain a copy of the employee's work schedule.

12. Employee agrees to participate in surveys and data calls relative to the FEMA Telework Program, as requested.

13. The employee must obtain supervisory approval before taking leave in accordance with established office procedures in accordance with FEMA's Absence and Leave policies.. Use of sick leave, annual leave, or other leave credits during regularly schedule telework time must be approved in advance by the supervisor. Overtime must be approved in advance by the supervisor.

14. Employee will utilize Government equipment for official business only and in accordance with applicable laws, regulations, policies, etc., as well as safeguard said equipment Employee is responsible for servicing and maintaining employee-owned equipment.

15. The employee agrees to permit access to their home by agency representatives when necessary to ensure proper maintenance of agency-owned equipment. Teleworkers should be given at least one day's advance notice of any such visit. Visits should only be done during regular working hours.

16. Employee is covered under the Federal Employees Compensation Act in the course of performing official duties at the alternate work location or official duty station. Any accident or injury which occurs at the alternate work location must be brought immediately to the attention of the supervisor.

17. Employee's most recent performance rating must be at least equivalent to "proficient" or "achieved expectations".

18. Employee understands that telework is not a substitute for dependent care (child care or elder care) and that appropriate arrangements must be made to accommodate children and adults who cannot care for themselves, while performing official duties in a telework site.

19. The employee understands that the Government will not be responsible for any operating costs that are associated with the use of employee's home as an alternative workplace, for example home maintenance, insurance or utilities.

20. Employee will apply approved safeguards to protect Government records from unauthorized disclosure or damage and will comply with the provisions set forth in the Privacy Act of 1974, Public Act of 1974, Public Law 93-579, codified at Title 5, U.S.C., Section 55a.

21. The employee agrees to abide by the Department of Homeland Security and FEMA Standards of Ethical Conduct Standards while working on official duty.

22. Telework agreements will be reviewed and discussed between the employee and supervisor on an annual basis.

23. Management may terminate participation in this arrangement at any time.

24. The employee may withdraw from the program at any time. The supervisor and employee understand that either party may terminate the Telework agreement with reasonable advance notice, generally fourteen calendar days, but not less than seven calendar days and require the employee to resume working at his/her official duty station. Reasons for termination will be documented by the supervisor and/or employee and filed with this agreement.

Compliance with this Agreement

The employee's failure to comply with the terms of this agreement may result in the termination of this agreement and the telework arrangement. Failure to comply with the provisions of this agreement may also result in appropriate disciplinary or adverse action against the employee.

Part - II Certification

By signing this agreement, the employee certifies that (s)he has read the terms of this agreement and agrees to follow the policies and procedures outlined in them as well as all other applicable regulations, policies, and procedures.

Max Meindl
Employee's Signature

Emergency Management Specialist
Title

Jul 25, 2018
Date

Supervisor's Signature

Title

Date

Telework Coordinator's Signature

Date Reviewed

Part III - Approval/Disapproval

Your request to participate in the telework program is: ☐ Approved as written ☐ Approved with the following modification(s)

☐ Disapproved for the following reason(s):

☐ The employee does not have sufficient duties or work activities suitable for performance at an alternate work site.

☐ The employee's absence from the work place under a telework arrangement will unacceptably impact the operation of the work unit.

☐ The extent of supervision required for the employee could not be achieved in conjunction with a telework arrangement.

☐ The employee's alternative work site does not meet prescribed acceptability standards. (State the specific deficiency issue(s), such as: safety, two-way communications, access to required materials, IT security, or non-work related distractions and/or obligations.)

☐ The employee does not meet performance eligibility requirements. (State the specific deficiency issue(s) such as: writing, problem-solving, reliability for the following prescribed policies and procedures, organization/time management skills, or work quality/quantity.

☐ The employee does not meet conduct-related eligibility requirements. (State the specific deficiency issues(s), such as: leave abuse, excessive absence, or a record of misconduct which precludes participation at this time. If no additional misconduct in one (1) year, employee may reapply.

☐ Other (please specify): _____

Supervisor's Signature _____ Title _____ Date _____

Telework Program Coordinators Signature _____ Date _____

Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor

Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003

Expires: 5/31/2018

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b). Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax: (_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

___ No ___ Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition? ___ No ___ Yes.

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

___ No ___ Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: ___ No ___ Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? ___ No ___ Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? ___ No ___ Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
___ No ___ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? ___ No ___ Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?
___ No ___ Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency : _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

Signature of Health Care Provider _____ **Date** _____

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.**

Notice of Eligibility and Rights & Responsibilities
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



OMB Control Number: 1235-0003
Expires: 8/31/2021

In general, to be eligible an employee must have worked for an employer for at least 12 months, meet the hours of service requirement in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. While use of this form by employers is optional, a fully completed Form WH-381 provides employees with the information required by 29 C.F.R. § 825.300(b), which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Part B provides employees with information regarding their rights and responsibilities for taking FMLA leave, as required by 29 C.F.R. § 825.300(b), (c).

[Part A – NOTICE OF ELIGIBILITY]

TO: _____
Employee

FROM: _____
Employer Representative

DATE: _____

On _____, you informed us that you needed leave beginning on _____ for:

- ☐ The birth of a child, or placement of a child with you for adoption or foster care;
- ☐ Your own serious health condition;
- ☐ Because you are needed to care for your _____ spouse; _____ child; _____ parent due to his/her serious health condition.
- ☐ Because of a qualifying exigency arising out of the fact that your _____ spouse; _____ son or daughter; _____ parent is on covered active duty or call to covered active duty status with the Armed Forces.
- ☐ Because you are the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered servicemember with a serious injury or illness.

This Notice is to inform you that you:

- ☐ Are eligible for FMLA leave (See Part B below for Rights and Responsibilities)
- ☐ Are **not** eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
- ☐ You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately _____ months towards this requirement.
- ☐ You have not met the FMLA's hours of service requirement.
- ☐ You do not work and/or report to a site with 50 or more employees within 75-miles.

If you have any questions, contact _____ or view the
FMLA poster located in _____.

[PART B-RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA LEAVE]

As explained in Part A, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period. **However, in order for us to determine whether your absence qualifies as FMLA leave, you must return the following information to us by _____.** (If a certification is requested, employers must allow at least 15 calendar days from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely manner, your leave may be denied.

- ☐ Sufficient certification to support your request for FMLA leave. A certification form that sets forth the information necessary to support your request _____ is/ _____ is not enclosed.
- ☐ Sufficient documentation to establish the required relationship between you and your family member.
- ☐ Other information needed (such as documentation for military family leave): _____
- _____
- _____

☐ No additional information requested

If your leave does qualify as FMLA leave you will have the following **responsibilities** while on FMLA leave (only checked blanks apply):

- _____ Contact _____ at _____ to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.
- _____ You will be required to use your available paid _____ **sick**, _____ **vacation**, and/or _____ **other leave** during your FMLA absence. This means that you will receive your paid leave and the leave will also be considered protected FMLA leave and counted against your FMLA leave entitlement.
- _____ Due to your status within the company, you are considered a “key employee” as defined in the FMLA. As a “key employee,” restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. We _____ **have**/_____ **have not** determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us.
- _____ While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every _____. (Indicate interval of periodic reports, as appropriate for the particular leave situation).

If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on the this form, you will be required to notify us at least two workdays prior to the date you intend to report for work.

If your leave does qualify as FMLA leave you will have the following **rights** while on FMLA leave:

- You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as:
 - _____ the calendar year (January – December).
 - _____ a fixed leave year based on _____.
 - _____ the 12-month period measured forward from the date of your first FMLA leave usage.
 - _____ a “rolling” 12-month period measured backward from the date of any FMLA leave usage.
- You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. This single 12-month period commenced on _____.
- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)
- If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered servicemember’s serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.
- If we have not informed you above that you must use accrued paid leave while taking your unpaid FMLA leave entitlement, you have the right to have _____ **sick**, _____ **vacation**, and/or _____ **other leave** run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the leave policy. Applicable conditions related to the substitution of paid leave are referenced or set forth below. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA leave.

_____ For a copy of conditions applicable to sick/vacation/other leave usage please refer to _____ available at: _____.

_____ Applicable conditions for use of paid leave: _____

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact:

_____ at _____.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to provide employees with notice of their eligibility for FMLA protection and their rights and responsibilities. 29 U.S.C. § 2617; 29 C.F.R. § 825.300(b), (c). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

Designation Notice
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



OMB Control Number: 1235-0003
Expires: 8/31/2021

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the employer must inform the employee of the amount of leave that will be counted against the employee's FMLA leave entitlement. In order to determine whether leave is covered under the FMLA, the employer may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient. While use of this form by employers is optional, a fully completed Form WH-382 provides an easy method of providing employees with the written information required by 29 C.F.R. §§ 825.300(c), 825.301, and 825.305(c).

To: _____

Date: _____

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided.
We received your most recent information on _____ and decided:

_____ **Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave.**

The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your leave entitlement:

_____ Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: _____

_____ Because the leave you will need will be unscheduled, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised (check if applicable):

_____ You have requested to use paid leave during your FMLA leave. Any paid leave taken for this reason will count against your FMLA leave entitlement.

_____ We are requiring you to substitute or use paid leave during your FMLA leave.

_____ You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position _____ **is** _____ **is not** attached. If attached, the fitness-for-duty certification must address your ability to perform these functions.

_____ **Additional information is needed to determine if your FMLA leave request can be approved:**

_____ The certification you have provided is not complete and sufficient to determine whether the FMLA applies to your leave request. You must provide the following information no later than _____, unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.
(Provide at least seven calendar days)

(Specify information needed to make the certification complete and sufficient)

_____ We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

_____ Your FMLA Leave request is Not Approved.

_____ The FMLA does not apply to your leave request.

_____ You have exhausted your FMLA leave entitlement in the applicable 12-month period.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to inform employees in writing whether leave requested under the FMLA has been determined to be covered under the FMLA. 29 U.S.C. § 2617; 29 C.F.R. §§ 825.300(d), (e). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 – 30 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

YOUR RIGHTS AS A FEDERAL EMPLOYEE

ENFORCED BY THE U.S. OFFICE OF SPECIAL COUNSEL

I. THE U.S. OFFICE OF SPECIAL COUNSEL (OSC) is an independent agency that investigates and prosecutes allegations of prohibited personnel practices (PPP).

WHAT IS A PROHIBITED PERSONNEL PRACTICE (PPP)?:

Under 5 U.S.C. §2302(b)(1)-(b)(12) a federal employee authorized to take, direct others to take, recommend or approve any personnel action may not:

- **Discriminate (including discrimination based on marital status and political affiliation).** *EXAMPLE: Supervisor Joe refuses to promote Employee Jane because Jane is a registered Republican; or his refusal is because she is a single mother. (OSC will generally defer Title VII discrimination allegations to the EEO process, rather than duplicating already existing procedures.)*
- **Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.** *EXAMPLE: Selecting Official Joe hires Applicant Jack based on Senator Smith's recommendation that Jack be hired because Jack is a constituent; or fails to hire Applicant Jane because of Congressman Smith's recommendation based on the Congressman's friendship with Jane's parents.*
- **Coerce the political activity of any person, or take action against any employee as reprisal for refusing to engage in political activity.** *EXAMPLE: Supervisor Jane takes away significant job duties of Employee Jack because Jack will not make a contribution to Jane's favorite candidate.*
- **Deceive or willfully obstruct any person from competing for employment.** *EXAMPLE: Supervisor Joe, located in Headquarters, orders that no vacancy announcements be posted in the field office where Employee Jack works because he does not want Jack to get a new job; or falsely states that there will be extensive travel in the position when he knows that there is no travel.*
- **Influence any person to withdraw from competition for a position to improve or injure the employment prospects of any other person.** *EXAMPLE: Supervisor Jane, in an effort to hire Employee Joe, tells Employee Jack that he should not apply for a position because he is not qualified and will never be selected. Employee Jack is qualified.*
- **Give an unauthorized preference to a person to improve or injure the employment prospects of any particular employee or applicant.** *EXAMPLE: Supervisor Jane specifies that Spanish-speaking skills are necessary for a vacant position, for the purpose of selecting Employee Jack, who speaks fluent Spanish. The position, however, does not require Spanish-speaking skills..*
- **Engage in nepotism.** *EXAMPLE: Second-level Supervisor Jane asks First-level Supervisor Joe to hire her son; or to promote her daughter.*
- **Take a personnel action against an employee because of whistleblowing.** *EXAMPLE: Supervisor Joe directs the geographic reassignment of Employee Jack because Jack reported safety violations to the agency's Inspector General; or because employee Jill reported a gross waste of funds to the Office of Internal Affairs.*
- **Take a personnel action against any employee because of the exercise of an appeal, complaint, or grievance right.** *EXAMPLE: Supervisor Jane places Employee Jack on an undesirable detail because Employee Jack filed an administrative grievance about his performance rating.*
- **Discriminate against an employee on the basis of conduct, which does not adversely affect the performance of the employee.** *EXAMPLE: Jack's employment is terminated because he attended a "Gay Pride" march; or he attended a "Pro-Life" event; or he attended an animal rights rally; or he attended a gun-owners' rights meeting.*
- **Take or fail to take a personnel action, if such action would violate a veterans' preference requirement.** *Example: Supervisor Jane hired Employee Jack, without considering Veteran Jennifer, who was included on the list of eligible employees. (OSC's jurisdiction is for disciplinary actions only; the Dept. of Labor has jurisdiction to investigate for corrective actions.).*
- **Take a personnel action against an employee which violates a law, rule, or regulation which implements a merit systems principle.** *EXAMPLE: Supervisor Joe terminates the probationary appointment of Employee Jack because of Jack's letter to the editor criticizing affirmative action - a valid exercise of First amendment rights, a law implementing a merit system principle.*

What You Can Do If You Believe A PPP Has Been Committed

An employee who believes a PPP has been committed can file a written complaint with the U.S. Office of Special Counsel. Complaint forms are available on the Web at www.osc.gov. Employees do not need attorneys to file a complaint. OSC is an independent and prosecutorial agency. It will investigate allegations of prohibited personnel practices, and seek any corrective and disciplinary action.

II. The U.S. Office of Special Counsel Also Receives Confidential Disclosures and Enforces The Hatch Act

RECEIVING CONFIDENTIAL DISCLOSURES (5 U.S.C. §1213):

Current and former federal employees and applicants can confidentially report information evidencing a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. The OSC has the authority to require the head of the agency concerned to investigate the matter if OSC determines that a disclosure has been made.

ENFORCING THE HATCH ACT(5 U.S.C. §7321-26):

The Office of Special Counsel is authorized to issue advisory opinions that respond to federal employee questions about whether or not they may engage in specific political activities under the Act. The OSC also prosecutes violations of the Hatch Act before the Merit Systems Protection Board. These violations include: using official authority to interfere with an election result; soliciting, accepting or receiving political contributions; soliciting or discouraging political activity of persons before the employing agency; and running for public office in a partisan political election.

Need Additional Information?

- Information on filing a complaint: 202-653-7188 or 800-872-9855.
- Information on making a disclosure: 202-653-9125 or 800-572-2249.
- Updated and detailed information on OSC and its procedures- visit our web page:
<http://www.osc.gov>,
- Updated and detailed information on OSC in our revised brochure:
“The Role of the U.S. Office of Special Counsel”
(GPO # 028-004-00105-9) by calling 202-512-1800 - the GPO Bookstore.



**U.S. Office of Special Counsel
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