


## MEMORANDUM



January 12, 2018

To: Jerome Fowlkes  
Director, Office of Agency Services  
Farm Credit Administration

From: Dorothy L. Nichols   
Chief Operating Officer

Subject: Applicability of FCA PPMs 857 (Reasonable Accommodations for Individuals with Disabilities) and 862 (Personal Assistance Services)

Pursuant to the authority vested in me by Article IX, Section 1 of the Bylaws of the Farm Credit System Insurance Corporation (FCSIC), I confirm that I concur in the application of existing Farm Credit Administration PPMs 857 and 862 to FCSIC.

FCA PPMs 857 and 862 shall be applied to FCSIC as follows:

- Except as noted herein, each reference to the “Farm Credit Administration” shall be read to refer to FCSIC;
- The first “reference” on page 1 of PPM 857 shall be read as 12 U.S.C. § 2277a-7 (§ 5.58 of the Farm Credit Act of 1971, as amended);
- All references to “Chief Operating Officer” shall refer to the FCSIC Chief Operating Officer;
- All references to “Chief Executive Officer” shall not apply to FCSIC and any responsibilities of the Chief Executive Officer under the PPMS shall be undertaken by the FCSIC Chief Operating Officer;
- All references to “Office Directors” shall refer to FCSIC’s Director of Risk Management and FCSIC’s Chief Financial Officer;
- All references to “General Counsel” or “Office of General Counsel” shall refer to FCSIC’s General Counsel;
- All references to Office of Agency Services, Equal Employment Opportunity and Inclusion Director, Reasonable Accommodation Coordinator and Special Emphasis Disability Program Manager shall refer to those FCA offices and officials acting in those capacities on behalf of FCSIC under the Inter-Agency Agreement in effect between FCA and FCSIC.

Please contact Howard Rubin or me if you have any questions.

**Issuing Unit:** OAS  
**PPM Category:** Human Resources  
**Document Number:** 857  
**Date of Publication:** 1/2/2018  
**Title:** Reasonable Accommodations for Individuals with Disabilities  
**Work life:** No

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## **POLICY**

The Farm Credit Administration's (FCA or Agency) policy is to comply fully with all applicable legal authorities in providing reasonable accommodations to employees or applicants who require them due to disability. FCA is committed to providing reasonable accommodation to its employees and applicants for employment to assure that individuals with disabilities enjoy full access to equal employment opportunities at FCA. FCA will provide reasonable accommodation:

- When an applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
- When an employee with a disability needs an accommodation to perform the essential functions of the job or to gain access to the workplace; and
- When an employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., details, training, office-sponsored events).

## **REFERENCES**

- 12 U.S.C. § 2243 (§ 5.9 of the Farm Credit Act of 1971, as amended)
- Section 501 of the Rehabilitation Act of 1973, as amended, including the Americans with Disabilities Act Amendments Act of 2008, P.L. 110-325 (29 U.S.C. § 791, et seq.)
- Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act (29 CFR Part 1630)
- Regulations to Implement the Rehabilitation Act (29 CFR Part 1614.203)
- Title II of the Genetic Information Nondiscrimination Act of 2008 (P.L. 110-233)
- Regulations to Implement the Genetic Information Nondiscrimination Act (29 CFR Part 1635)
- Equal Employment Opportunity Commission (EEOC): Practical Advice for Drafting and Implementing Reasonable Accommodation Procedures Under Executive Order 13164 (July 2005)
- EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (October 17, 2002)
- EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (October 20, 2000)



## IMPLEMENTING PROCEDURES

Date of Issuance: 1/2/2018

### 1. DEFINITIONS

- a) **Reasonable Accommodation:** Any change in the work environment or in the way things are customarily done that provides an equal employment opportunity to a qualified individual with a disability. While there are some things that are not considered reasonable accommodations (e.g. removal of an essential job function or personal use items such as a hearing aid that is needed on and off the job), reasonable accommodations can cover a wide range of modifications and adaptations that enable an individual to apply for a job, perform a job, or have equal access to the workplace and employee benefits such as kitchens, parking lots, and office events. Common types of accommodations include:

-modifying work schedules -granting breaks or providing leave -altering how or when job duties are performed -allowing telework -moving to different office space -making changes in workplace policies -removing and/or substituting a nonessential function - providing technology assistance	-providing a reader or other staff to enable employees to perform their job functions, where the accommodation cannot be provided by current staff -removing an architectural barrier, including reconfiguring work spaces -providing accessible parking -providing materials in alternative formats ( <u>e.g.</u> Braille, large print)
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- b) **Disability:** Disability means:

- A physical or mental impairment that substantially limits one or more major life activities (an “actual disability”), or
- A record of such an impairment (“record of”), or
- Being regarded as having such an impairment.

The Rehabilitation Act does not require an employer to provide reasonable accommodation to an individual who only meets the “regarded as” definition of disability (bullet 3 above). An applicant or employee must meet either the “actual” definition or the “record of” definition (bullets 1 or 2 above) to be eligible for reasonable accommodation.

The definition of “disability” is to be interpreted broadly and does not require an extensive analysis. Examples of “major life activities” include, but are not limited to: caring for oneself; seeing; hearing; speaking; eating; walking; standing; lifting; bending; learning; thinking; communicating; sitting; interacting with others; and operation of a major bodily function.

- c) **Qualified:** Qualified, with respect to an individual with a disability, means that the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.
- d) **Essential Functions:** Those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. Determination of a position's essential functions 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:** If a specific reasonable accommodation causes significant difficulty or expense for FCA, then the Agency does not have to provide that accommodation. 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.
- f) **Interactive Process:** A process which begins after a request for accommodation has been made, the interactive process is where the individual and the Agency communicate to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation and the decision-maker must communicate with each other about the request, the precise nature of the problem that is generating the request, how a disability is prompting a need for an accommodation, the functional limitations of the individual, and alternative accommodations that may be effective in meeting the individual's needs.

## 2) **REQUESTS FOR REASONABLE ACCOMODATION**

- a) **Initiating Request.** A request for reasonable accommodation is a request that an individual makes for an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition. A request for reasonable accommodation begins the process. A reference guide for supervisors on handling requests for reasonable accommodations can be found in Appendix A.

A request does **not** have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation whenever he or she chooses, even if the existence of a disability has not been previously disclosed. The request may be made verbally or in writing.

- An employee may make a reasonable accommodation request to his/her first-line supervisor; another supervisor or manager in his or her immediate chain of supervision; his or her Office Director; the EEOI Director; the RAC; or the Special Emphasis Disability Program Manager (SEDPM).
- An applicant may request a reasonable accommodation verbally or in writing from any FCA employee with whom the applicant has contact about the application process.
- A family member, health professional, or other representative may request an accommodation on behalf of an FCA employee or applicant. The request should go to one of the same persons to whom the employee or applicant would make the request. Where possible, FCA will confirm with the employee or applicant that he or she in fact consents to the request for reasonable accommodation.

#### **b) Written Requests for Record Keeping Purposes**

To enable FCA to keep accurate records about requests for accommodation, employees seeking a reasonable accommodation are asked to follow up a verbal or written request by submitting to the RAC a completed FCA Form 502, Confirmation of Request for Reasonable Accommodation (CRRA). If a reasonable accommodation request is made by a job applicant, the appropriate Office Director (or delegated manager or supervisor), or other FCA employees with whom the applicant has contact about the application process, can give him/her the FCA Form 502 to fill out. In such a case, the employee providing the form to the job applicant should immediately notify the RAC that a request was made and Form 502 was provided to the applicant. This written confirmation request is solely for FCA's recordkeeping purposes. FCA will begin the reasonable accommodation process when it receives a verbal or written request regardless of whether FCA Form 502 has been completed.

If an employee requires a reasonable accommodation on a repeated basis (for example, the assistance of sign language interpreters), that employee needs to submit the written request for recordkeeping purposes only the first time the accommodation is needed.

#### **c) Determining the "Decision-Maker"**

The FCA employee who is responsible for deciding whether to grant a request for reasonable accommodation is the "decision-maker." For accommodation requests from employees, the decision-makers will be Office Directors. To eliminate unnecessary levels of review, Office Directors are encouraged to delegate this authority to first-line supervisors or other managers or supervisors in the chain of supervision wherever possible.

For reasonable accommodation requests from job applicants, the decision-maker will be the Office Director, or delegated manager or supervisor in the chain of supervision, for the Office where the applicant is seeking employment.

Decision-makers must designate acting decision-makers when they are not available to assure the required time frames are met.

**d) After a Request is Received**

Any FCA employee receiving a request for accommodation (when he/she is not the decision-maker) should forward the request to the employee's immediate supervisor, to the prospective immediate supervisor of the applicant, or to the RAC, who will then forward the request to the appropriate decision-maker. The request should be forwarded to the decision-maker as soon as possible but not more than **four (4) business** days from the date the request is received.

**3. THE INTERACTIVE PROCESS**

**Once the decision-maker receives a request, before he or she begins to process it, he or she must immediately consult with the RAC about the request.** The RAC will coordinate communications with the decision-maker to begin the interactive process with the requester to determine what, if any, accommodation should be provided. In the interactive process, the individual requesting the accommodation and the FCA decision-maker, as well as the RAC, must talk about the need for the request, the process for determining whether an accommodation will be provided, and any potential accommodation. The RAC is available to provide guidance to decision-makers and other employees involved in the reasonable accommodation process. Communication is a priority throughout the interactive process.

The FCA decision-maker has the principal responsibility for identifying possible accommodations with assistance from the RAC. He or 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. Appendix B identifies resources available to help both the decision-maker and the individual requesting the accommodation to identify possible accommodations.

To begin the interactive process, the FCA decision-maker will:

- a)** Provide an explanation as soon as possible to the applicant or employee that he/she will be the decision maker and describe the process. The RAC may also participate in this discussion.
- b)** Follow a three-part analysis when evaluating a reasonable accommodation request:
  - 1.** Determine if requester is a qualified individual with a disability (Section 5 below).

2. Determine if the accommodation is needed to enable a qualified employee with a disability to perform the essential functions of his/her position; enable an employee with a disability to enjoy equal benefits and privileges of employment as a similarly situated employee without a disability; or enable a qualified applicant with a disability to be considered for the position he or she desires.
  3. Determine what effect the accommodation will have on the employee's ability to perform the essential functions of his or her position and any undue hardship the accommodation may impose on the Agency.
- c) Ongoing 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 to be provided are clear, extensive discussion may not be necessary. Even so, the decision-maker and the requesting individual should talk to each other to make sure there is a full exchange of relevant information. The RAC can also participate in this process as needed.
- d) There are specific considerations in the interactive process when responding to a request for reassignment.
1. Used as a last resort, reassignment to a funded, vacant position for which the employee (not applicant) is qualified is a possible reasonable accommodation.
  2. Reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to funded, vacant positions and for employees who are qualified for the new position. If the employee is qualified for the position, he/she will be reassigned to the job and will not have to compete for it.
  3. Reassignment will only be considered if no other effective accommodations are available to enable the employee to perform his or her current job, or if the only effective accommodation would cause undue hardship.
  4. In considering whether and where there are positions available for reassignment, the decision-maker will work with the RAC and the individual requesting the accommodation to identify:
    - All funded, vacant positions within the Agency for which the employee may be qualified, with or without reasonable accommodation; and
    - All positions which the OAS 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, FCA will consider vacant lower level positions for which the individual is qualified.

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

#### **4. FCA STAFF RESPONSIBILITIES: PROCESSING REASONABLE ACCOMODATION REQUESTS**

##### **a) Office Directors**

- Receive and process requests for reasonable accommodation from employees in their offices in accordance with these Implementing Procedures.
- To eliminate unnecessary levels of review, delegate authority for making decisions on requests for reasonable accommodation from employees in their offices, and from applicants for jobs in their offices, to first-line supervisors or other supervisors or managers in the chain of supervision wherever possible.
- Where they have not delegated decision-making authority, serve as decision-makers on requests for reasonable accommodation from employees in their offices and from applicants for jobs in their offices.
- Consult with the RAC for guidance when they receive a request for reasonable accommodation for which they are the decision-maker before they begin processing the request.
- Obtain concurrence from the General Counsel before they make "undue hardship" determinations.
- Consult with the RAC and Office of General Counsel (OGC) prior to denying any request for reasonable accommodation.
- Provide second level of reconsideration when a decision-maker delegate denies a request for reasonable accommodation and an initial reconsideration request.
- Within 10 business days of a final decision on a reasonable accommodation request, complete FCA Form 504, Reasonable Accommodation Information Reporting (RAIR) Form, and provide all records obtained or created during the processing of the request, including medical information received, to the RAC.

##### **b) Managers and Supervisors**

- Receive and process requests for reasonable accommodation from employees in their chain of supervision in accordance with these Implementing Procedures.

- Where authority has been delegated to them, serve as decision-makers on requests for reasonable accommodation from employees in their chain of supervision and from applicants for jobs in their chain of supervision.
- As a decision-maker, consult with the RAC when they receive a request for reasonable accommodation, before they begin processing the request and regarding responses to requests.
- Obtain concurrence from the General Counsel before making "undue hardship" determinations.
- Consult with the RAC and OGC prior to denying any request for reasonable accommodation.
- Within 10 business days of a final decision on a reasonable accommodation request, complete FCA Form 504, RAIR Form, and provide all records obtained or created during the processing of the request, including medical information received, to the RAC.

**c) Reasonable Accommodation Coordinator (RAC)**

- Advise the decision-maker on each reasonable accommodation request before he/she begins processing it, and provide guidance on responding to requests.
- Upon receipt of an employee's or applicant's request, provide guidance to the employee or applicant about the process for requesting reasonable accommodation.
- Provide medical documentation request forms to the individual seeking a reasonable accommodation if the decision-maker decides that medical information is needed to evaluate the request.
- Receive completed medical documentation from health care providers and determine whether the disability requirement has been met for purposes of a reasonable accommodation request. Relay the disability determination to the decision-maker.
- Consult with OGC for guidance, as needed, on Agency reasonable accommodation requests.
- Seek the concurrence of the General Counsel on any denial of a reasonable accommodation request based on undue hardship prior to a final decision being made.
- Maintain records on all reasonable accommodation requests in secure, locked files separate from employees' personnel files.
- Prepare an annual report on the number and types of reasonable accommodation requests as well as a qualitative assessment of the program, including any recommendations for improvement.

**d) Special Emphasis Disability Program Manager (SEDPM)**

- Receive and forward to the RAC requests for reasonable accommodation from employees in accordance with these Implementing Procedures.
- Promote disability awareness through activities, articles and the annual observation of Disability Awareness Month in October.

**e) Equal Employment Opportunity and Inclusion (EEO/I) Director**

The EEO/I Director receives and forwards to the RAC requests for reasonable accommodation from employees in accordance with these Implementing Procedures. The EEO/I Director generally will not have substantive involvement in individual requests for reasonable accommodation, but may: 1) provide input regarding procedures and controls necessary to implement this policy after consultation with the RAC and OGC; and/or 2) arrange for mediation, if appropriate, to resolve a dispute over a reasonable accommodation request.

**f) Office of Agency Services (OAS)**

- Ensure that Human Resources Specialists and other Agency staff involved in the reasonable accommodation application process are trained to recognize requests for reasonable accommodation and to handle such requests in accordance with all legal requirements and these Implementing Procedures.
- Ensure reasonable accommodation training is provided to all new managers and supervisors within one year of their becoming managers and supervisors, and to all employees at least every five years.

**g) General Counsel**

The General Counsel must concur with all denials of requests for reasonable accommodation based on undue hardship. If the General Counsel or the Deputy General Counsel is the decision-maker in such a denial or is the employee seeking the accommodation, the Chief Human Capital Officer (CHCO) must concur with the denial.

**h) Chief Operating Officer (COO).**

The COO will be the second level of reconsideration when an Office Director, as the decision-maker, denies a request for reasonable accommodation and an initial reconsideration request. The COO will be the decision-maker on requests for reasonable accommodation submitted by any FCA employee who reports directly to him or her or to the CEO.

**i) Chief Executive Officer (CEO)**

FCA's CEO will be the second level of reconsideration when the COO, as the decision-maker, denies a request for reasonable accommodation and an initial reconsideration request.

**j) FCA Employees Who Receive Requests for Reasonable Accommodation from Applicants for FCA Employment**

- Receive and forward to the RAC requests for reasonable accommodation from job applicants in accordance with these Implementing Procedures.

**5. DETERMINING WHETHER THE REQUESTER HAS A DISABILITY: MEDICAL DOCUMENTATION**

Before FCA grants a request for reasonable accommodation, the Agency must determine whether an employee or applicant has a disability that requires a reasonable accommodation. The definition of "disability" is to be interpreted broadly and does not require an extensive analysis.

In some cases, the disability and need for accommodation will be obvious. In other cases, the employee or applicant will have previously provided sufficient evidence of disability and the need for accommodation to FCA. In these cases, FCA will not seek any further medical information. However, when a disability and/or need for reasonable accommodation is not obvious or otherwise already known and the individual is requesting accommodation, FCA may require the individual to provide reasonable medical documentation about the disability and his/her functional limitations.

- a)** If a decision-maker believes that medical information is necessary to evaluate a request for reasonable accommodation, he/she will work with the RAC to request medical documentation from the employee or applicant. The request for medical documentation will be comprehensive so as to minimize the need for subsequent requests. However, this does not preclude subsequent requests, if they become necessary. The request will not seek information unrelated to the disability requiring an accommodation. FCA may consult with a medical consultant to determine the appropriate information to request.
- b)** The RAC will provide the employee, applicant, or health care provider a written request for medical information, and provide information pertaining to the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.

Alternatively, the RAC, the decision-maker and the individual requesting the accommodation may agree that the individual will sign a limited release (see FCA Form

516), allowing FCA or its medical consultant to contact the individual's health care provider either directly or by submitting a list of specific questions.

- c) The medical information should be returned to the RAC within 30 calendar days of the forms being provided to the requester. Once the RAC receives the medical information from the employee, applicant, or health care provider, the RAC will evaluate it and, if necessary, confer with the Agency's medical consultant and/or OGC to determine whether the individual is deemed to have a disability.
- d) If the medical information initially provided is not sufficient to enable FCA to determine whether the individual is disabled and an accommodation is appropriate, the Agency may ask for further information. If this is necessary:
  1. The RAC 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 ask his or her health care practitioner to provide the missing information directly to the RAC.
  3. Alternatively, the RAC and the individual requesting the accommodation may agree that the individual will sign a limited release (see FCA Form 516), allowing FCA or its medical consultant to contact the individual's health care provider either directly or by submitting a list of specific questions.
  4. If the individual and/or FCA are unable to obtain from the individual's health care provider documentation sufficient to substantiate the existence of a disability and the need for reasonable accommodation, the RAC may, but is not required to, request that a health care practitioner chosen by FCA examine the individual at FCA's expense.
  5. The failure to provide appropriate documentation or to cooperate in FCA's efforts to obtain such documentation may result in a denial of the reasonable accommodation. An employee may renew the request at any time by providing appropriate documentation to the RAC.
- e) Once the RAC has reviewed the medical documentation to determine whether the individual has a disability as defined herein, the RAC will notify the decision-maker of whether the individual has a disability and the individual's impairments that require an accommodation based on the medical documentation. It will be within the discretion of the RAC as to whether specific medical information will be provided to the decision-maker to the extent needed to determine an effective accommodation.

## **6. CONFIDENTIALITY OF MEDICAL INFORMATION**

The Rehabilitation Act requires that all "medical information," whether obtained through the reasonable accommodation process or otherwise, must be kept confidential. Medical information includes the fact that someone requests or is receiving an accommodation or has a disability, as well as any information concerning an individual's medical condition or history, regardless of whether the information was provided voluntarily or in response to a disability-related question.

Accordingly, every FCA employee who is involved in any capacity in processing a request for reasonable accommodation must maintain confidentiality regarding the request and may share information connected with such a request only as follows:

- a) Any person involved in the processing of a reasonable accommodation request may share information as necessary in accordance with these Implementing Procedures.
- b) Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s).
- c) First aid and safety personnel may be told if the disability might require emergency treatment.
- d) Government officials (for example, from the Equal Employment Opportunity Commission) may be given information necessary to investigate the Agency's compliance with the Rehabilitation Act.
- e) The RAC may utilize information to prepare the annual reports required by this policy.

Notwithstanding the confidentiality requirement, the employee or applicant may voluntarily choose to disclose otherwise-confidential information. Moreover, any FCA employee may disclose information as directed by the employee or applicant seeking the reasonable accommodation when the employee or applicant provides a written, signed request expressly directing the FCA employee or the Agency to disclose such information.

FCA must ensure that all records it maintains on reasonable accommodation requests are kept in secure, locked files separate from employees' personnel files.

## **7. GENETIC INFORMATION NONDISCRIMINATION ACT of 2008**

The regulations implementing the Genetic Information Nondiscrimination Act of 2008 require employers that make a request for health-related information to warn the employee and/or health care provider from whom it requested the information not to provide genetic information, suggesting language such as the following:

“The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. ‘Genetic information,’ as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.”

#### **8. INSTANCES WHERE REQUESTER HAS NOT ESTABLISHED EXISTENCE OF DISABILITY**

In certain instances, FCA may choose, in its discretion, to provide a workplace adjustment for employee comfort or productivity without determining whether the individual has a disability. In these instances, the Agency’s decision to provide the adjustment is not subject to the legal requirements governing reasonable accommodations. These instances will typically involve adjustments that can be readily and inexpensively provided.

#### **9. TIMEFRAMES: PROCESSING REQUESTS AND PROVIDING REASONABLE ACCOMODATIONS**

FCA processes requests for reasonable accommodation and provides accommodations, where they are appropriate, in as short a time frame as reasonably possible. FCA recognizes, however, that the time necessary to process a request will depend on the nature of the accommodation requested and whether additional medical information is necessary.

- a) Decision within 20 Business Days.** If an accommodation request does not require medical documentation from the employee/applicant and there are no extenuating circumstances, the decision-maker, with assistance from the RAC, will process the accommodation request and provide a decision within 20 business days from the date he or she receives the request. Where a particular reasonable accommodation can be provided in less than 20 days, failure to provide the accommodation in a prompt manner may result in a violation of the Rehabilitation Act.
- b) Expedited processing.** In certain circumstances, a request for reasonable accommodation may require an expedited review and decision that is shorter than the 20 business days identified above. This includes where a reasonable accommodation is needed, for example:

- To enable an applicant to apply for a job.
- To enable an employee to attend a meeting scheduled to occur soon.

- c) Time Tolloed When Medical Documentation is Requested.** The 20-day decision period is not applicable when the decision-maker, in consultation with the RAC, believes it necessary to obtain medical information from the employee or applicant to determine whether the requesting individual has a disability and/or to identify the functional limitations. In this situation, the RAC will request the medical information from the employee or applicant as soon as possible after the decision-maker receives the request for accommodation, but before the expiration of the 20-day period. The need for documentation may not become apparent until after the interactive process has begun.
- d) After Receipt of Medical Documentation.** Upon receipt and evaluation of acceptable medical documentation by the RAC, the decision-maker, in consultation with the RAC, will make the accommodation decision within 10 business days, absent any extenuating circumstances as described below.
- e) Extenuating Circumstances.** These are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation and are outside of the Agency's control. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. It is FCA's policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. All FCA staff are expected to act as quickly as reasonably possible in processing requests and providing accommodations.

An extenuating circumstance covers limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. For example, FCA may not delay processing or providing an accommodation because a staff member is unavailable.

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.

- f) Interim Accommodations.** If there is a delay in providing an approved accommodation, the decision-maker will consult with the RAC to determine whether interim 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, when all the facts and circumstances known to the agency make it reasonably likely that an individual will be entitled to a reasonable accommodation, but the accommodation cannot be provided immediately, the agency shall provide an interim accommodation that allows the individual to perform some or all of the essential functions of his or her job, if it is possible to do so without imposing undue hardship on the agency.

FCA decision-makers, in consultation with the RAC, who approve such interim measures are responsible for assuring that they do not take the place of a permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken.

## **10. GRANTING REASONABLE ACCOMODATION REQUESTS**

As soon as the decision-maker, in consultation with the RAC, determines that a reasonable accommodation will be granted, the decision should be immediately communicated to the individual in writing. If the accommodation cannot be provided immediately, the decision-maker must inform the individual of the projected time frame for providing the accommodation. The decision-maker, in consultation with the RAC, must ensure that the granted accommodation is provided within a reasonable timeframe. Within 10 business days of the final decision granting the accommodation, the decision-maker must complete FCA Form 504 (RAIR) and send it to the RAC.

Any assistive technology or other equipment and materials provided to an employee as part of a reasonable accommodation are the property of FCA. Employees must return all equipment to the RAC upon separation from Federal service.

Individuals are entitled to an effective accommodation but not necessarily the accommodation of their choice. Where the decision-maker, in consultation with the RAC, has offered to make an accommodation other than one requested by the individual, the decision-maker shall notify the individual of the reasons the decision-maker believes that the chosen accommodation will be effective. If the individual rejects the alternate accommodation offered, the decision-maker must document that rejection on FCA Form 504.

## **11. DENIAL OF REASONABLE ACCOMODATION REQUEST**

The decision-maker must first consult with the RAC and OGC before any decision denying a reasonable accommodation request is made. If the denial is based on undue hardship, concurrence from the General Counsel is required. The decision-maker must fill out FCA Form 503 (DRAR) and give it to the individual who requested the accommodation as soon as the denial decision is made. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial.

Reasons for the denial of a request for reasonable accommodation may include the following, keeping in mind that the actual notice to the individual must include specific reasons for the denial:

- a) The requested accommodation would not be effective.
- b) Providing the requested accommodation would result in undue hardship. Before reaching this determination, the decision-maker, must explore whether other effective accommodations exist which would not impose undue hardship and therefore can be provided.
- c) Medical documentation is inadequate to establish that the individual has a disability or needs a reasonable accommodation to be considered for a job; to perform the essential functions of the job; or to enjoy equal benefits and privileges of employment.
- d) Requested accommodation would require the removal of an essential function.
- e) The requested accommodation would require the lowering of an essential performance or production standard.

In addition, the written notice of denial must explain FCA's procedures for requesting an initial and second level of reconsideration. The notice should also inform the individual that if the second level of reconsideration sustains the denial, he or she has the right to file an EEO complaint or may have rights to pursue a Merit Systems Protection Board (MSPB) appeal. See Section 14 below.

**12. REQUEST FOR RECONSIDERATION.** FCA has a two-step reconsideration process for denials of requests for reasonable accommodation or for approvals of an accommodation other than the accommodation of choice.

If an individual wishes reconsideration, he or she should first ask the decision-maker to reconsider the decision. The individual may present additional information in support of his or her request. The decision-maker will decide a reconsideration request within 20 business days of receipt of a written request for reconsideration. The decision-maker should consult with the RAC and the CHCO/OGC as appropriate. Once the reconsideration decision is made, the requester should be promptly notified of the decision with a copy to the RAC. The RAC will update FCA Form 504 with information on the reconsideration decision.

If the decision is sustained on initial reconsideration and the decision-maker is not an Office Director, the individual may seek a second level of reconsideration from the

appropriate Office Director. The individual may present additional information in support of his or her request. The Office Director will decide on the request for reconsideration within 20 business days. The Office Director should consult with the RAC and the CHCO/OGC as appropriate. Once the second reconsideration decision is made, the requester should be promptly notified of the decision with a copy to the RAC. The RAC will update FCA Form 504 with information on the second reconsideration decision.

If the decision is sustained on initial reconsideration and the decision-maker is an Office Director, the individual may seek a second level of reconsideration from the COO. The individual may present additional information in support of his or her request. The COO will decide on the request for reconsideration within 20 business days. The COO should consult with the RAC and the CHCO/OGC as appropriate. Once the second reconsideration decision is made, the requester should be promptly notified of the decision with a copy to the RAC. The RAC will update FCA Form 504 with information on the second reconsideration decision.

If the decision is sustained on initial reconsideration and the decision-maker is the COO, the individual may seek a second level of reconsideration from FCA's CEO. The individual may present additional information in support of his or her request. The CEO will decide on the request for reconsideration within 20 business days. The CEO should consult with the RAC and the CHCO/OGC as appropriate. Once the second reconsideration decision is made, the requester should be promptly notified of the decision with a copy to the RAC. The RAC will update FCA Form 504 with information on the second reconsideration decision.

An individual may bring an EEO or MSPB claim if the individual has utilized the process for initial and second level reconsideration in accordance with Section 14 below.

### **13. INFORMATION MAINTENANCE, TRACKING AND REPORTING**

Within 10 business days of a final decision on a reasonable accommodation request, decision-makers must complete FCA Form 504 (REASONABLE ACCOMMODATION INFORMATION REPORTING FORM), and provide all records obtained or created during the processing of the request, including medical information received, to OAS, Attention: Reasonable Accommodation Coordinator. The OAS will maintain employee accommodation records for the longer of the employee's FCA tenure or 5 years.

The RAC will prepare an annual report for the CEO. The report will contain the following information:

- a) The number of reasonable accommodations, by type, and by job (occupational series, grade level, organization location) that have been requested in the application process and whether those requests have been approved or denied;

- b) The number of reasonable accommodations, by type, and by job (occupational series, grade level, organization location) that have been requested by current employees to enable performance of the essential functions of their job and whether those requests have been approved or denied;
- c) The number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment, and whether requests have been granted or denied;
- 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.

In addition, the report will provide a qualitative assessment of FCA's reasonable accommodation program, including any recommendations for improvement of FCA's reasonable accommodation policies and procedures.

#### **14. RELATIONSHIP OF PROCEDURES TO STATUTORY CLAIMS**

This policy is in addition to statutory protections for people with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. Requirements governing the initiation of statutory claims, including time frames for filing such claims, remain unchanged. An individual who chooses to pursue statutory remedies for denial of reasonable accommodation must:

- a) For an EEO complaint: Contact an EEO counselor within 45 days from the date the individual is notified that the second level of reconsideration has sustained the denial of the request for accommodation or has sustained the approval of an accommodation other than the accommodation of choice.
- b) For an MSPB appeal: Initiate an appeal to the MSPB within 30 days of an appealable adverse action as defined in 5 C.F.R. 1201.3.

#### **15. SIGN LANGUAGE INTERPRETERS**

When a hearing-impaired employee is known to need a sign language interpreter, the Agency must provide the interpreter for crucial events such as training, safety talks, discussions on work procedures, policies or assignments, and disciplinary actions, whether or not the employee asks for it. If such an event must occur in a time frame that does not permit the Agency to obtain an interpreter, the Agency must document

both the need for the timing of the event and the attempts it has made to obtain an interpreter on FCA Form 503, Denial of Reasonable Accommodation Request. In addition, the Agency must ensure and document on the denial form that the hearing-impaired employee receives the information presented at the event in a thorough, appropriate, and timely fashion.

Approved: \_\_\_\_\_ /s/ \_\_\_\_\_

William Hoffman  
Chief Operating Officer

Date: 1/2/18

## APPENDIX A

### Summary of Reasonable Accommodation Process

An employee or someone on the employee's behalf makes a verbal or written request for a reasonable accommodation. Whoever initially receives the request must forward it to the employee's supervisor, who will forward it to the appropriate decision-maker (DM). The request must be given to the DM within 4 business days. The DM should provide requester with written acknowledgement of the RA request and copy the RAC. DM should also provide requester with explanation of process as soon as possible. (FCA Form 502, Confirmation of Request for Reasonable Accommodation, is completed by employee and sent to RAC.)

The DM: (1) receives the request for accommodation; (2) seeks guidance from the RAC; (3) engages in the interactive process; (4) reviews the request to determine if it is reasonable; and (5) works with the RAC to request medical documentation from the employee, if needed. The completed medical documentation goes to the RAC.

The DM issues decision within **20 business days** if no medical documentation is needed or within 10 business days following receipt and review of acceptable medical documentation by the RAC.

A decision denying the requested accommodation must explain the reason for denial. (General Counsel must concur if denial is based on undue hardship; OGC consulted for any other denials.)  
(FCA Form 503, Denial of Reasonable Accommodation Request, completed by decision-maker)

A decision offering an accommodation other than what was requested must explain why the alternate accommodation was offered and why it will be effective.

A decision granting the proposed accommodation 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 and must provide an interim accommodation to the extent possible.

If Employee requests reconsideration from decision-maker, decision-maker has **20 business days** to issue reconsideration decision.

If reconsideration decision is denied, employee may request a 2<sup>nd</sup> level reconsideration. Appropriate Official has **20 business days** to issue reconsideration decision.

The decision-maker will complete FCA Form 504, Reasonable Accommodation Information Reporting Form, and provide it to the RAC within **10 business days** of the final decision.

## APPENDIX B

### Selected Reasonable Accommodation Resources

#### **Computer/Electronic Accommodations Program (CAP)**

<http://www.tricare.osd.mil/cap>

The Computer/Electronic Accommodations Program (CAP) provides assistive technology, devices, and services free of charge to Federal agencies, such as FCA, that have a partnership agreement with CAP, to enable the agencies to provide reasonable accommodation to employees with disabilities. *CAP's mission is to ensure that people with disabilities have equal access to the information environment and opportunities throughout the Federal government.* Form 479 (add link) should be completed to request assistive technology and services.

#### **U.S. Equal Employment Opportunity Commission (EEOC)**

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

The EEOC's Publication Center has many free documents on the Title I employment provisions of the Americans with Disabilities Act (ADA), including both the statute, 42 U.S.C. 12101 et seq. (1994), and the regulations, 29 C.F.R. 1630 (1997). In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. These documents are available through the Internet at <http://www.eeoc.gov>.

#### **Job Accommodation Network (JAN)**

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

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

A service of the U.S. Department of Labor's Office of Disability Employment Policy. JAN can provide information, free-of-charge, about many types of reasonable accommodations.

#### **ADA Disability and Business Technical Assistance Centers (DBTACs)**

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

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

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

#### **Registry of Interpreters for the Deaf**

(301) 608-0050 (Voice/TT)

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

The Registry of Interpreters for the Deaf, Inc., (RID) is a national membership organization of professionals who provide sign language interpreting/transliterating services for Deaf and Hard of Hearing persons. RID advocates for the increased quality, qualifications, and quantity of

interpreters. The Registry offers information on locating and using interpreters and transliteration services.

**RESNA Technical Assistance Project**

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

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

RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, can refer individuals to projects in all 50 states and the six territories offering technical assistance on technology-related services for individuals with disabilities. Services may include:

- Information and referral centers to help determine what devices may assist a person with a disability (including access to large data bases containing information on thousands of commercially available assistive technology products),
- Centers where individuals can try out devices and equipment,
- Assistance in obtaining funding for and repairing devices, and
- Equipment exchange and recycling programs.



## CONFIRMATION OF REQUEST FOR REASONABLE ACCOMMODATION (FCA-502)

Completed by the Individual Requesting Reasonable Accommodation

*Return form to the Reasonable Accommodation Coordinator (RAC), Office of Agency Services*

Applicant's or Employee's Name	Telephone	Office	Date of Request	Today's Date
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**ACCOMMODATION REQUESTED** - *Be as specific as possible, for example, adaptive equipment, reader, or schedule modification. If accommodation is time sensitive, please explain.*

**REASON FOR REQUEST** – *Identify substantial limitation of major life activity (see PPM definition of "disability" or consult with RAC if assistance needed).*

FCA-502 (12/17)

## DENIAL OF REASONABLE ACCOMMODATION REQUEST (FCA-503)

Completed by Decision-Maker for the Reasonable Accommodation Request

*Return form to the individual requesting the reasonable accommodation and provide copy to the Reasonable Accommodation Coordinator , Office of Agency Services*

<b>Name of Individual Requesting Reasonable Accommodation</b>
<b>Type(s) of reasonable accommodation requested</b>
<b>Was the Reasonable Accommodation Coordinator or other FCA resources consulted prior to denial of the request?</b>  <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Request for reasonable accommodation denied because:</b> <i>May check more than one</i>  <input type="checkbox"/> Accommodation ineffective <input type="checkbox"/> Accommodation creates undue hardship <input type="checkbox"/> Medical documentation inadequate <input type="checkbox"/> Accommodation requires removal of an essential function <input type="checkbox"/> Accommodation requires lowering of performance or production standard <input type="checkbox"/> Other (please identify)
<b>Detailed Reason(s) for the denial of reasonable accommodation.</b> <i>Must be specific and state <b>why</b> accommodation is ineffective or causes undue hardship</i>
<b>Steps to request reconsideration of the decision:</b> 1. The individual asks the decision-maker to reconsider the denial. The individual may provide additional information to support this request. The decision-maker must respond to the request for reconsideration within <b>20 business days</b> . 2. If the decision (denial) is sustained: <ul style="list-style-type: none"><li>- If the decision-maker is not an Office Director, the individual may seek a second level of reconsideration from the appropriate Office Director. The individual may present additional information in support of his or her request. The Office Director will respond to the request for reconsideration within <b>20 business days</b>.</li></ul>

<p>– If the decision-maker is an Office Director, the individual may seek a second level of reconsideration from the Chief Operating Officer (COO). The individual may present additional information in support of his or her request. The COO will respond to the request for reconsideration within <b>20 business days</b>.</p>
<p><b>Steps to pursue statutory claims:</b></p> <ol style="list-style-type: none"> <li>1. <b>EEO Complaint</b> pursuant to 29 C.F.R. § 1614: The individual must contact an EEO Counselor <i>within 45 days from the date the individual is notified that the second level of reconsideration has sustained the denial of the request for accommodation.</i></li> <li>2. <b>Merit Systems Protection Board (MSPB) Appeal:</b> The individual must initiate an appeal to MSPB <i>within 30 days of an appealable adverse action as defined in 5 C.F.R. § 1201.3.</i></li> </ol>

If denial was based on undue hardship, concurrence by the General Counsel (if the General Counsel or Deputy General Counsel was decision-maker, concurrence by Chief Human Capital Officer):

<b>Name</b>		<b>Date</b>
<b>GENERAL COUNSEL</b>	<b>Signature</b>	
<b>Name of Decision-Maker</b>	<b>Signature</b>	<b>Date</b>

FCA-503 (12/17)

*Return form to the individual requesting the reasonable accommodation and provide copy to the Reasonable Accommodation Coordinator , Office of Agency Services*

## REASONABLE ACCOMMODATION INFORMATION REPORTING FORM (FCA-504)

Completed by Decision-Maker for the Reasonable Accommodation Request  
*Attach copies of all documents obtained or developed in processing this request*  
*Return form to the Reasonable Accommodation Coordinator (RAC), Office of Agency Services*

<b>Name of Individual Requesting Accommodation</b>	<b>Office</b>	<b>Job held or desired</b> <i>(occupational series, grade level)</i>
<b>Reasonable accommodation: Check one</b>  <input type="checkbox"/> Approved  <input type="checkbox"/> Alternate Accommodation Approved  <input type="checkbox"/> Denied <i>If denied, attach copy of the Denial of Request form.</i>		
<b>Date Request Received</b>	<b>Received By (Name)</b>	
<b>Date Referred to Decision-Maker</b>	<b>Decision-maker</b>	
<b>Date Approved or Denied</b>	<b>Date Accommodation Provided</b> <i>(if different from date approved)</i>	
<b>Date of Initial Reconsideration Request</b>	<b>Decision on Initial Reconsideration Request</b>	
<b>Date of Second Reconsideration Request</b>	<b>Decision on Second Reconsideration Request</b>	
<b>If time frames outlined in Reasonable Accommodation Procedures were not met, please explain why.</b>		
<b>Reasonable accommodation needed for: (check one)</b>  <input type="checkbox"/> Application process  <input type="checkbox"/> Performing job functions or accessing the work environment  <input type="checkbox"/> Accessing a benefit or privilege of employment <i>i.e., attending a training program or social event</i>		

<b>Type(s) of reasonable accommodation requested</b> <i>(for example, adaptive equipment, reader, removal of architectural barrier)</i>	
<b>Type(s) of reasonable accommodation provided</b>	
<b>Offer of Alternate Accommodation.</b> If the individual proposed one type of reasonable accommodation which is being denied, but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why you believe the chosen accommodation would be effective.	
<b>Was medical information required to process this request?</b> <i>If yes, explain why.</i>	
<b>Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations,</b> e.g., <i>Job Accommodation Network, disability organization, Disability Program Manager)</i>	
<b>Comments</b>	
<b>Submitted by</b>	<b>Phone</b>

FCA-504 (12/2017)

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

*Return form to the Reasonable Accommodation Coordinator (RAC), Office of Agency Service*

**AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION (FCA-516)**

I, **[Employee Name]**, hereby request and authorize my health care provider(s) to release pertinent medical information concerning my medical condition as it relates to my request for reasonable accommodations to my employer:

**[Name]**  
**OAS-HRD Reasonable Accommodation Coordinator**  
**Farm Credit Administration**  
**1501 Farm Credit Drive**  
**McLean, VA 22102**

**Phone: 703-883-XXXX**

**Email:**

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Signature

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Date