U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
NATIONAL POLICY

ORDER 1400.12

Effective Date:
Mar. 22, 2004

SUBJ: PROCESSING ACCOMMODATION REQUESTS FOR PEOPLE WITH DISABILITIES

This Order documents the Federal Aviation Administration's Procedures for Processing Accommodation Requests for People with Disabilities and establishes responsibilities for implementing the program in accordance with applicable laws and regulations.

This Order must be used in conjunction with U. S. Department of Transportation Order 1011.1, Procedures for Processing Requests for Reasonable Accommodation by DOT Job Applicants and Employees with Disabilities. Copies of this Order and DOT Order 1011.1 are available in alternative media for people with disabilities, from your local Civil Rights Office or from the National People with Disabilities Program Manager at the FAA Headquarters Office of Civil Rights. Also complete copies of this Order will be posted on the FAA's intranet and will be available in the FAA's Headquarters, Region, and Center locations, libraries, Human Resources Offices, and Civil Rights offices. Civil Rights offices will provide the order in alternative formats, including simplified format on request.

Marion C. Blakey

Marion C. Blakey
Administrator
Federal Aviation Administration

TABLE OF CONTENTS

Chapter 1. GENERAL

1. 100. Purpose of This Order 1-1
2. 101. Who This Order Affects 1-1
3. 102. Explanation of Policy 1-1

CHAPTER 2. PROCEDURES

1. 200. DOT Order 1011.1, Provisions Incorporated by Reference 2-1
2. 201. Decision-Maker 2-1
3. 202. Records 2-1
4. 203. Request for Reconsideration of Denial of Reasonable Accommodation Requests 2-1
5. 204. Alternative Dispute Resolution 2-2
6. 205. Equal Employment Opportunity Complaint and Grievance Procedures 2-2
7. 206. Processing Requests for Reassignment as a Reasonable Accommodation 2-2
8. 207. Determinations of Undue Hardship 2-3
9. 208. Record Keeping 2-3

CHAPTER 3. ADMINISTRATIVE INFORMATION

1. 301. Distribution of This Order 3-1
2. 302. Authority to Change This Order 3-1
3. 303. For more Information 3-1

Appendix A A-1

Appendix B B-1

CHAPTER 1. GENERAL INFORMATION

1. Purpose of This Order. This Order incorporates all the provisions of Procedures for Processing Requests for Reasonable Accommodation by DOT Job Applicants and Employees with Disabilities, DOT Order 1011.1. See, http://www.drc.dot.gov. This Order establishes procedures for processing reasonable accommodation requests at the Federal Aviation Administration (FAA). DOT Order 1011.1 outlines specific guidelines that must be followed by FAA managers, supervisors, job applicants, and employees when processing a request for reasonable accommodation by a qualified individual with a disability. This Order is not intended to include or restate all of the laws, regulations, binding legal precedents, or policy statements that set forth the substantive requirements governing such requests or that may affect the processing of such requests. This Order should be implemented consistently with such authorities.

2. Who This Order Affects. All current FAA employees will be notified about this Order and any later substantive revisions. Such notice will include where to obtain copies of the Order. All new employees will be given a brief written summary of this Order as part of their orientation process. The summary will be included in the next edition of the orientation manual provided to new employees.

3. Explanation of Policy. It is the policy of the FAA to ensure that individuals with disabilities have full access to equal employment opportunities at the FAA. Our policy is to comply fully with the reasonable accommodation requirements of the Rehabilitation Act of 1973, as amended; Executive Order 13164, "Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation"; and DOT Order 1011.1. The FAA strives to maintain a sound, diverse, and cooperative work environment for all people, regardless of race, color, sex, religion, national origin, age, disability, or sexual orientation.

CHAPTER 2. PROCEDURES

1. DOT Order 1011.1, Provisions Incorporated by Reference. Other than as provided herein, this Order incorporates all procedures and requirements of DOT Order 1011.1.

2. Decision-Maker. Under DOT Order 1011.1, Chapter 1-4, (b) and (c), the first-line supervisor of the employee is the Decision-Maker for FAA employees' reasonable accommodation requests. The Human Resources Management Officer responsible for servicing a vacancy is the Decision-Maker for reasonable accommodation requests from applicants for FAA positions. The Decision-Maker is responsible for conducting the reasonable accommodation process, and if necessary, the Decision-Maker may consult with the appropriate human resources, legal, medical, and/or civil rights personnel, the Disability Program Manager, and/or the Disability Resource Center. The Decision-Maker must complete the processing of requests as quickly as possible but no later than 25 working days from the date of the reasonable accommodation request.

3. Records. Under DOT Order 1011.1, Chapter 6-5, the Decision-Maker will send medical records related to the determination of reasonable accommodation that are obtained under this Order to the FAA Office of Aerospace Medicine (Medical Office) serving Headquarters, Region, and Center locations. The Decision-Maker will request the employee or job applicant only to provide those medical records permitted under DOT Order 1011.1, Chapter 6-1 and 6-2. The Decision-Maker will forward such records as soon as possible after making a decision on the request.

The Medical Office will keep the records confidential as well as separate from the individual's employee records and will only disclose such records as permitted under DOT Order 1011.1. The Medical Office will keep the records as long as the individual is employed by the FAA or as long as required by the applicable systems of records notice, whichever is longer.

4. Request for Reconsideration of Denial of Reasonable Accommodation Requests. Under DOT Order 1011.1, Chapter 8-1, the FAA must seek to settle disputes arising from the denial of a request for reasonable accommodation by resolving them at the lowest possible level. If an individual wants the FAA to reconsider a decision to deny a reasonable accommodation request, he or she may ask the Decision-Maker to reconsider his or her denial. The person requesting the reasonable accommodation may present more information to support his or her request for reconsideration. However, there is no appeals process under this Order.

5. Alternative Dispute Resolution. Under DOT Order 1011.1, Chapter 8-1, the FAA must seek to settle disputes arising from the denial of a request for reasonable accommodation by resolving them at the lowest possible level. The use of Alternative Dispute Resolution (ADR) under FAA Order 1400.10 may serve to settle many disputes.

Therefore, the FAA encourages its employees, job applicants, and managers to resolve disagreements and disputes about reasonable accommodation informally and before initiating an EEO complaint whenever possible. If an employee or a job applicant wants to use ADR, he or she may contact the ADR Specialist in the Office of Civil Rights serving Headquarters, Region, and Center locations.

6. Equal Employment Opportunity Complaint and Grievance Procedures. If an individual wants to file an EEO complaint or pursue Merit System Protection Board (MSPB) and bargaining-unit negotiated-grievance procedures, he or she must take the following steps:

- For an EEO complaint under 29 C.F.R. §1614, contact an EEO counselor in the Office of Civil Rights serving Headquarters, Region, and Center locations *within 45 days* of the date of the alleged discriminatory action.

- For a collective-bargaining claim, file a written grievance in conformance with the provisions of the Collective Bargaining Agreement.

- In the event *of an appealable adverse action,* initiate an appeal to the Merit Systems Protection Board *within 30 days.*

7. Processing Requests for Reassignment as a Reasonable Accommodation. When the Decision-Maker has determined that an employee who is a qualified individual with a disability cannot be accommodated in his or her current position, the Decision-Maker shall notify the servicing Human Resources Office in writing, requesting that the job search process for available positions begin, in order to determine whether reassignment as a reasonable accommodation would be available.

For details on the process, refer to the Human Resources Operating Instructions (HROI) section "FAA's Job Search Procedures for Qualified Individual with a Disability," prepared by the Office of Human Resources (AHR). The referenced AHR policy document shall be updated and established for the FAA in accordance with DOT Order 1011.1.

The AHR policy document shall be used concurrently with this Order. The policies apply both to requests for reassignment within the FAA and requests for reassignment between the FAA and other Operating Administrations in DOT.

8. **Determinations of Undue Hardship.** Under DOT Order 1011.1, Chapter 7-2(g), before reaching a determination of undue hardship, the Decision-Maker must explore whether other effective accommodations exist that would not impose undue hardship. In making an undue-hardship determination, the Decision-Maker must consult with appropriate Civil Rights, Human Resources, budget, and legal offices. All determinations that an accommodation would result in undue hardship must be approved by the Secretary of Transportation or a designee.

The Decision-Maker must send a completed copy of the report in appendix A (a hard-copy original and if possible an electronic version) to the FAA Headquarters Office of Civil Rights, through the National People with Disabilities Program Manager. The FAA Office of Civil Rights will forward determinations of undue hardship to the Secretary of Transportation.

9. **Record Keeping.** Under DOT Order 1011.1, Chapter 9-1, after the Decision-Maker decides whether to grant or deny a request for reasonable accommodation, he or she will forward a completed copy of the report in appendix B (a hard-copy original and if possible an electronic version) to the FAA Headquarters Office of Civil Rights, through the National People with Disabilities Program Manager, within 8 business days. The Headquarters Office of Civil Rights will keep the records as required by the Privacy Act of 1974.

CHAPTER 3. ADMINISTRATIVE INFORMATION

1. Distribution of This Order. All current FAA employees will be notified about this Order and any later substantive revisions. Such notice will include where to obtain copies of the Order. All new employees will be given a brief written summary of this Order as part of their orientation process. The summary will be included in the next edition of the orientation manual provided to new employees.
It is electronically available at http://acr.faa.gov/.

2. Authority To Change This Order. The Assistant Administrator for Civil Rights and FAA Diversity Advocate is authorized to issue changes to this Order and to delegate authority or assign responsibility.

3. For more Information. Send requests for information about this Order to the National People With Disabilities Program Manager (referred to as the Disabilities Program Manager [DPM] in DOT Order 1011.1), Office of Civil Rights, ACR-6, 800 Independence Avenue SW., Washington, DC 20591, or the People With Disabilities Program Manager in Region or Center locations.

APPENDIX A. PROCESSING ACCOMMODATION REQUESTS FOR PEOPLE WITH DISABILITIES

FAA Report of Action

on

Determinations of Undue Hardship in Reasonable Accommodation Requests

Please supply complete information for all the items listed below.

1. Name, job title, series and grade, organizational symbol, office address, and telephone number of the individual requesting a reasonable accommodation. If the request was made by a job applicant, provide the vacancy announcement number, job title, and series and grade (or pay band).

2. Date of the request.

3. Type(s) of reasonable accommodation requested.

   Check the appropriate boxes:

   ☐ Was the request related to performing the essential functions of the employee's job?

   ☐ Was the reasonable accommodation related to the benefits and privileges of employment?

   ☐ Was the reasonable accommodation related to the job application process?

   Please specify and describe the type(s) of reasonable accommodation requested:

4. Detailed reason(s) for the denial of the reasonable accommodation as an undue hardship—that is, any action that entails significant difficulty or expense.

   Check all the boxes that apply:

   - ☐ Accommodation would require removal of an essential function of the job.
   - ☐ Accommodation would require lowering of performance or production standard.
   - ☐ Cost of the accommodation needed would be too high (specify and document).
   - ☐ Impact of the accommodation on the operations of the agency would be too great.
   - ☐ Other (Please identify) _____.

5. Please provide a narrative statement, documentation if available, and an explanation substantiating the claim of undue hardship.

6. Please provide the name, job title, organizational symbol, office address, and telephone number of the Decision-Maker:

_____ _____

Signature Date

Send this report to FAA Office of Civil Rights, through the National People with Disabilities Program Manager, ACR-6.

APPENDIX B. PROCESSING ACCOMMODATION REQUESTS FOR PEOPLE WITH DISABILITIES

FAA Report of Action

on

Reasonable Accommodation Requests

Please supply complete information for all the items listed below.

1. Name, job title, series and grade, organizational symbol, office address, and telephone number of the individual requesting reasonable accommodation; or, if the request was made by a job applicant, provide the vacancy announcement number, job title, and series and grade (or pay band).

2. Date of the request.

3. Type(s) of reasonable accommodation requested.

   Check the appropriate boxes:

   ☐ Was the request related to performing the essential functions of the employee's job?

   ☐ Was the reasonable accommodation related to the benefits and privileges of employment?

   ☐ Was the reasonable accommodation related to the job application process?

   Please specify and describe the type(s) of reasonable accommodation requested:

4. Action on the request for reasonable accommodation:

Check the appropriate box:

☐ Granted.

☐ Granted in part.

☐ Denied. *(If denied, please answer question 5 below.)*

Check all the boxes that apply:

☐ Accommodation is ineffective.

☐ Medical documentation is inadequate.

☐ Accommodation would cause undue hardship.
All undue-hardship determinations must be approved by the Secretary of Transportation.

☐ Accommodation would require removal of an essential function.

☐ Accommodation would require lowering of a performance or production standard.

☐ The individual is not a qualified individual with a disability as defined under the Rehabilitation Act.

☐ Other (Please identify) _____

5. Detailed reason(s) for denying the reasonable accommodation (must be specific—e.g., why the accommodation is ineffective or causes undue hardship).

6. If the accommodation has been provided, please describe it—e.g., screen reader program, scheduled sign-language interpreters, modification of work schedule.

7. If the individual proposed one type of reasonable accommodation that is being denied but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denying the requested accommodation and the reasons why you believe the alternative accommodation would be effective.

8. State whether the DOT Disability Resource Center (DRC) was involved in providing the reasonable accommodation.

If both statements apply, check both boxes:

☐ DRC provided the reasonable accommodation.

☐ DRC provided technical assistance.

9. Describe and identify sources of technical assistance that were consulted in trying to identify suitable reasonable accommodations.

10. Please provide the name, job title, organizational symbol, office address, and telephone number of the Decision-Maker:

_____ _____

Signature Date

Send this report to FAA Office of Civil Rights, through the National People with Disabilities Program Manager, ACR-6.