

EPA Reassignment as a Reasonable Accommodation Standard Operating Procedures (SOP)

May 26, 2022

I. Purpose of SOP

This SOP is not intended to amend or replace HR Bulletin #10-003B, *Reassignment of a Qualified Employee with a Disability* or the [EPA Reasonable Accommodation Procedures](#). It is intended to facilitate and provide clarity regarding the Agency's reasonable accommodation reassignment process for qualified individuals with disabilities and is not intended to, nor does it create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the EPA, its officers, or any person. This SOP shall not be construed to create any right to judicial review involving the compliance or noncompliance with this SOP.

The Office of Civil Rights' National Reasonable Accommodation Program in conjunction with the Cincinnati and Research Triangle Park (RTP) Shared Service Centers (SSC), Office of General Counsel (OGC), Office of Human Resources (OHR) Labor and Employee Relations (LER) staff, including representatives from RTP and EPA Region 5, developed an "EPA Reassignment as a Reasonable Accommodation Standard Operating Procedure" (Reassignment SOP) to provide additional information about the process for reassignment as a reasonable accommodation. Although the SSC¹ and the Senior National and National Reasonable Accommodation Coordinator (collectively NRAC) will conduct the majority of the steps in the process, the SOP provides additional information to the reassignment stakeholders, including the employee under reassignment consideration, the decision-maker (DM), Human Resources and/or SSC management and staff, and the applicable hiring officials, etc.

The NRAC and when applicable, LORAC (Local Reasonable Accommodation Coordinators) will coordinate as needed with the employee, the employee's supervisor, Program Management Officials (PMO), OHR or Regional Human Resource Offices, the SSC, and OGC or Office of Regional Counsel (ORC) throughout the reassignment process.

II. Background on Reassignment as a Reasonable Accommodation

Reassignment as a reasonable accommodation is an accommodation of last resort and is only considered when the DM determines that a qualified employee with a disability who has sought or has a reasonable accommodation:

- A. Can no longer perform the essential functions of their current job with or without reasonable accommodation; or

¹ Office of Inspector General (OIG) uses a Human Resources office separate from the SSC. For purposes of this SOP, where it states SSC, if the employee is in OIG, it will be with their HR office.

- B. Adequate medical documentation indicates that the employee is no longer able to perform an essential job function; or
- C. Effective accommodations would cause undue hardship to the Agency.

Additional information about the reassignment process is outlined in HR Bulletin #10-003B, Reassignment of a Qualified Employee with a Disability, and the EPA Reasonable Accommodation Procedures [Section XI Reassignment](#).

It is important to note the following:

1. Reassignment as a reasonable accommodation is not available to applicants.
2. Reassignment is made only to a vacant, funded position or a position that may become vacant during the reassignment search period.
3. The employee must possess the requisite skill, experience, education, and other job-related requirements of the vacant, funded position and be able to perform the job with or without a reasonable accommodation.
4. A reassignment search will be conducted for 60 business days.
5. Reassignment to a vacant position outside of the employee's commuting area may be available, if the employee is willing to relocate, and if it will not result in undue hardship to the Agency. If the Agency reassigns an employee to a different geographical area, the employee must pay for any relocation expenses unless the employee's office pays such expenses to other employees. Please note a change in geographical location may result in a change in locality pay.

III. Authority and References

- Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791
- The Americans with Disabilities Act Amendments Act of 2008 (ADAAA)
- 29 C.F.R. §§ 1614.101 (a) and 1614.203
- Executive Order 13164, dated July 26, 2000 – *Requiring Federal Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation*
- [EPA Order 3115 – Merit Promotion Plan](#)
- [EPA Order 3110.21 - Providing Reasonable Accommodations for EPA Employees and Applicants with Disabilities](#)
- [Procedures for Providing Reasonable Accommodation for EPA Employees and Applicants with Disabilities](#)
- EPA HR Bulletin #10-003B Reassignment of a Qualified Employee with a Disability

IV. Consideration of Reassignment as an Accommodation

- A. When Reassignment Is Considered
 1. A qualified employee with a disability who has sought or has a reasonable accommodation and can no longer perform an essential function(s) of their job with or without a reasonable accommodation; or

2. Medical documentation has been provided indicating that the employee is no longer able to perform an essential job function(s) of the current position;² or
3. Effective accommodations would cause undue hardship to the Agency.

B. When Reassignment Is Not Considered

1. The Healthcare provider (HCP) indicates the employee is no longer able to work due to their disability; thus, reassignment is not an option. In such cases, the employee may be able to separate by voluntarily retiring (if eligible), resigning, or the Agency may begin the separation process (i.e., medical inability, etc.) in coordination with OGC and LER.
2. The employee is a probationary employee but was never able to perform the essential functions of the position, with or without reasonable accommodation, before the need for a reassignment arose.

C. Approval of Reassignment

1. After engaging in the interactive process with the employee, and if appropriate, the DM approves and documents the approval of reassignment as a reasonable accommodation using the Appendix D Reasonable Accommodation Information Reporting Form.
2. NRAC notifies and provides an overview of the Reassignment Process to the employee and DM in an email, at a meeting, or both.
3. If the employee refuses to participate in the reassignment process or does not provide the necessary information below in Section C.4., the Agency may follow other processes for separation (i.e., removal for medical inability, etc.) because the employee is no longer able to perform the essential functions of the position. The employee's supervisor should work with LER, and OGC, as needed, under these circumstances.
4. NRAC will ask for the following information from:
 - a. DM (in most cases the employee's supervisor) or other management designee
 1. Confirmation of the SSC that services the employee's organization.
 2. Agreement on due dates for the collection of the resumé, etc. from employee.
 - b. Employee (generally given two weeks to provide this information. The date will be determined in consultation with the employee, NRAC, and DM):
 1. The employee's resumé. The resumé must be in a format that would be used as if the employee were applying for a vacant position through USA Jobs;
 2. Employee's geographical preferences (for example, Washington, D.C. area only, Washington, D.C. area plus Research Triangle Park (RTP) in North Carolina, RTP only, Region 3 area, etc.); and,

² For guidance regarding medical documentation, please consult the EPA Reasonable Accommodation Procedures.

3. Lowest graded position (GS 12, 13, etc.) employee will consider.³
4. If qualifying documentation for the position (i.e., education transcripts, bar certificate, training certificates, etc.) is needed during this process, the servicing SSC will inform the NRAC. The NRAC will request the qualifying documentation from the employee and provide it to the SSC.
5. If employee is aware of any vacant positions for which they meet the minimum qualifications. This is optional for the employee and does not replace the SSC's search. An employee can suggest or inquire about positions throughout the process (Refer to Section V. C.).

V. Identification of Positions for Possible Reassignment Begins

In considering whether there are positions available for reassignment, the NRAC and LORAC will work with OHR as per HR Bulletin 10-003B, "Reassignment of a Qualified Employee with a Disability." The SSC staff will identify the occupational series for which the employee meets the requisite skill, experience, education, and other job-related requirements for and identify: (1) all funded vacant positions within the Agency for which the employee may qualify; and (2) all funded positions that the Agency has reason to believe will become vacant over the next 60 business days and for which the employee may qualify. A position is considered vacant even if the Agency has not posted a vacancy announcement seeking applications for that position or has a certificate and has not selected a candidate. The Agency will attempt to identify positions that are equivalent to the employee's current job in terms of pay, status, and relevant factors. When there is no vacant equivalent position, the Agency will consider vacant lower-level positions for which the individual may qualify.

A. NRAC notifies Lead Servicing SSC

1. Once the NRAC has received the employee's resumé, geographical preferences, and lowest graded position (refer to Section IV.C. 4. b), the NRAC will send the request to the Lead SSC to begin the qualifications determination process as described in Section V. B. below. In most cases, the SSC that services the employee's organization (position of record) will be the Lead SSC for the reassignment search and for determining whether the employee meets the requisite skill, experience, education, and other job-related requirements to occupy a position (Refer to Section V. B.).
2. The NRAC will also notify the non-lead SSC of the reassignment process at the same time as both SSC offices may need to conduct their own respective searches for positions during the search period after the qualifications determination is made by the Lead SSC.⁴

³ Reassignment does not include promoting an employee; thus, an employee must compete for any vacant position that constitutes a promotion.

⁴ In the situation that an employee in an organization serviced by one SSC is only interested in reassignment to an organization serviced by another SSC, the SSC servicing the organization where the employee is interested in being reassigned would be the lead SSC.

B. Lead SSC Determines Qualifications

Using the employee's resumé (and qualifying documentation if the SSC indicates it is needed), the Lead SSC will:

1. Determine all occupational series within EPA for which the employee meets the basic qualifications⁵ and emails the results to the NRAC within 15 (fifteen) business days upon receipt of the employee's resumé unless there are extenuating circumstances or additional qualifying documentation is needed. The NRAC will specify the due date. If qualifying documentation is needed during this process, the Lead SSC will request the information from the employee and notify the NRAC.
2. Once the qualifications process is complete, the Lead SSC will respond to the NRAC and the non-lead SSC with the following:
 - a. SSC point(s) of contact.
 - b. All occupational series for which the employee qualifies.
3. If the Lead SSC determines the employee is qualified only for the occupational series which is the current position of record and the employee can no longer perform that position as per the HCP's determination, then the reassignment process will conclude.
4. The non-lead SSC will designate a POC to work with the lead SSC and NRAC during the reassignment process.

C. Employee Inquiries

The employee may suggest or inquire about a job announcement or vacancy that the employee has identified throughout the reassignment process.

VI. Reassignment Search Period Begins

1. The NRAC will review the medical documentation to address any relevant factors as needed, depending on the documentation provided by the employee's HCP, once the Lead SSC identifies the occupational series. In some cases, the HCP may need to review a position description or essential job functions to determine if the employee can perform a certain occupational series with or without accommodations. The NRAC will notify the employee if such a need occurs.
2. NRAC will email the Lead SSC, the other SSC, the employee, and the DM to inform them of the occupational series that were identified by the Lead SSC and the start and end dates of the 60-business day search.
3. Each SSC's Point of Contact (POC) will:
 - a. Identify any current vacant positions in the specified geographic locations or any positions that the SSC believes will become vacant throughout the 60 business days search period for which the employee may qualify.

⁵ An employee who satisfies the requisite skill, experience, education, and other job-related requirements of the position

- b. The SSC conducts a qualifications review specific to each identified job announcement or position description.
- c. The SSC POC will email the NRAC every two weeks (no later than Tuesday of that week unless there is a federal holiday or closure on Monday or Tuesday of that week) from the start of the 60-day period indicating any positions or if there are no new positions during the two-week time frame.
- d. If any such positions are available during the search period, the SSC POC will send to the NRAC only, via email:
 - i. a copy of the vacancy announcement,
 - ii. position description,
 - iii. and name of the hiring/selecting official.

VII. Consideration of a Vacant Position

The following will occur for every vacancy notice:

1. The SSC POC notifies the NRAC that there is a position available for consideration.⁶ The NRAC will provide the employee with the general position description and announcement (minus any identifying information about the hiring official's name) and ask if the employee is interested, and if the employee can perform the job with or without an accommodation.
 - a. The employee can request additional information and the NRAC will seek to obtain answers before the employee provides a response.
 - b. If the employee indicates in writing that they are not interested in the identified vacant position, then the position is no longer considered. The NRAC will notify the SSC in writing that the position is not being considered by the employee.
2. If the employee is interested in an identified vacant position (and without identifying the employee), the NRAC will contact the hiring official to discuss the reassignment process, describe the employee's functional limitations, and ask the hiring official to identify, in writing, the essential functions of the position in question.
3. Once the NRAC has received the essential job functions of the position in writing, the NRAC will meet with the employee to discuss the essential functions and what, if any, reasonable accommodation(s) the employee will need to perform all of the essential duties of the vacant position.
4. The NRAC will meet with the hiring official to discuss the essential duties, the limitations (in the redacted determination of disability letter and/or in the redacted updated medical documentation letter), and the reasonable accommodation needed, if any, which will allow the employee to perform the essential functions of the position.

⁶ Details are not available for consideration, because they are not vacant positions.

5. During this process, it may be necessary for the NRAC to ask for additional information from the employee's HCP. The NRAC will notify the employee of the need for such information.
6. The management hiring official, in consultation with the NRAC, will decide if the employee can perform the essential functions of the job with or without an accommodation and provide the written decision to the NRAC. Without identifying the hiring official, the NRAC will notify the employee of the hiring official's decision.
7. If there is more than one vacancy for which the employee is qualified after completing Section VII. Steps 1-6, the Agency must place the employee in the position that is equivalent to the employee's current position in terms of pay, status, or other relevant factors. The NRAC will work with appropriate persons including the employee, SSC, OGC, and LER as needed to determine the best placement for the employee. Please note that each position is assessed as outlined above as soon as the SSC sends information to the NRAC. At times there may be several vacancies being considered at a given time or only one or none. There is no obligation to hold a position that can be offered to the employee while employee waits to see if there will be other vacant positions later in the 60-business day search period.
8. If a position will be offered to the employee, the NRAC will notify the employee in writing. The employee will need to indicate in writing whether they accept the offer.
9. If the employee accepts the reassignment offer, the NRAC will notify the SSC and the OHR Director or designee, and the hiring official of the employee's acceptance of the hiring official's decision/offer to place the employee in the vacant position. The SSC will coordinate with the applicable Program Office, Region, or Lab to take all appropriate personnel actions for the reassignment.

VIII. Reassignment Search Concludes

1. If the employee accepts an offer for a vacant position, the reassignment search concludes at that time. In such cases, the 60-business day search ends before the end of the search period when a position is found and the employee accepts that position.
2. If the employee resigns or separates from the Agency, the reassignment search concludes.
3. After the 60-business days has concluded, if there are no vacant positions for which the employee is qualified and able to perform the essential functions with or without reasonable accommodation, or if the employee refuses an offer for an available vacant, funded position for which the employee is qualified and able to perform the essential functions with or without an accommodation, the reassignment process concludes and the employee and the DM should coordinate with LER, and OGC as needed, to determine the appropriate next steps.