

EEOC	<i>DIRECTIVES TRANSMITTAL</i>	Number 0-560.001
		Date November 1, 2018

SUBJECT: Procedures for Providing Personal Assistance Services for Individuals with Disabilities

PURPOSE: These procedures accompany revised EEOC Order 560.003, Procedures for Providing Reasonable Accommodation for Individuals with Disabilities. They delineate the internal EEOC procedures for the provision of “personal assistance services” pursuant to 29 C.F.R. §1614.203(d)(5)(i)

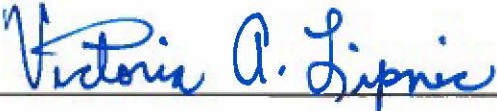
EFFECTIVE DATE: Immediately

DISTRIBUTION: All Offices

CURRENT CHANGES: On January 3, 2017, EEOC published a Final Rule on Affirmative Action for Individuals with Disabilities in Federal Employment. Section 501 of the Rehabilitation Act prohibits Federal agencies from discriminating against individuals with disabilities in employment and requires agencies to be model employers – that is, to engage in affirmative action on behalf of individuals with disabilities in order to promote their hiring, promotion, and retention. The Final Rule requires Federal agencies to provide “personal assistance services” (PAS) as a form of affirmative action. These are the procedures for the implementation of this requirement at EEOC.

OBSOLETE DATA AND FILING INSTRUCTIONS: To be filed with EEOC Order No. 560.003, dated November 1, 2018, Procedures for Providing Reasonable Accommodation for Individuals with Disabilities.

CONTACT: Contact the Disability Program Manager in the Office of the Chief Human Capital Officer at DisabilityProgramManager@eoc.gov.



 Victoria A. Lipnic, Acting Chair

Reissued November 27, 2018 for 508 compliance

PROCEDURES FOR PROVIDING PERSONAL ASSISTANCE SERVICES
FOR INDIVIDUALS WITH DISABILITIES
TABLE OF CONTENTS

I. Affirmative Action Obligation to Provide “Personal Assistance Services”	2
II. “Undue Hardship”	3
III. “Targeted Disability”	3
IV. Role of Disability Program Manager (DPM) and Acting DPM.....	3
V. Time Frames for Compliance with These Procedures	3
VI. Personal Assistance Services Procedures.....	4
VII. Contacting the DPM and Distribution of These Procedures	5

I. Affirmative Action Obligation to Provide “Personal Assistance Services”

On January 3, 2017, the EEOC published a Final Rule on Affirmative Action for Individuals with Disabilities in Federal Employment. Section 501 of the Rehabilitation Act prohibits Federal agencies from discriminating against individuals with disabilities in employment and requires agencies to be model employers – that is, to engage in affirmative action on behalf of individuals with disabilities in order to promote their hiring, promotion, and retention. The Final Rule clarifies the obligations that the Rehabilitation Act of 1973 imposes on Federal agencies, as employers, that are over and above the obligation not to discriminate on the basis of disability. The requirements in the regulations apply to agencies as of January 3, 2018.

The final rule requires Federal agencies to provide “personal assistance services” (PAS) as a form of affirmative action.¹ PAS provide employees with *targeted disabilities* “assistance with performing activities of daily living that an individual would typically perform if they did not have a disability, and that is not otherwise required as a reasonable accommodation, including, for example, assistance with removing and putting on clothing, eating, and using the restroom.”² PAS must be performed by a personal assistance service provider. Also, PAS must be provided to employees who need them when they telework under an agency’s telework policy or telework as a reasonable accommodation.

PAS also must be provided when needed because of job-related travel. An employee receiving PAS in the office or while teleworking must still request PAS for job-related travel. The EEOC will not necessarily know that PAS is required for travel simply because an employee regularly receives PAS while at the worksite or while teleworking. It is also possible that an employee may require different PAS for travel than usually required. Since PAS for job-related travel are also considered a form of reasonable accommodation, requests for these services will be handled as requests for reasonable accommodation.

Employees do not need to determine if what they need is a reasonable accommodation or PAS; they should simply contact the EEOC’s Disability Program Manager (see below) and explain what they need. The DPM will determine whether the request is for reasonable accommodation or PAS and proceed accordingly.

The EEOC must provide PAS if:

1. an employee requires them because of a “targeted disability”
2. provision of these services would, together with any reasonable accommodations required, enable an employee to perform the essential functions of a position the individual holds or desires
3. provision of such services would not impose an undue hardship on the the EEOC.³

¹ 29 C.F.R. §1614.203(d)(5)(i). For more information on the obligation to provide PAS, see EEOC’s Q&A document at <https://www1.eeoc.gov/federal/directives/personal-assistance-services.cfm>.

² 29 C.F.R. §1614.203(a)(5).

³ 29 C.F.R. §1614.203(d)(5)(i)(A-C).

The EEOC is prohibited from taking any adverse action against job applicants or employees based on their need, or perceived need, for PAS.

II. “Undue Hardship”

Undue hardship considers the nature, extent, and cost of an accommodation or of providing personal assistance services in relation to an agency's overall resources and the impact of the accommodation or of the requirement to provide personal assistance services on the operation of the agency's business. Determination of undue hardship is always made on a case by case basis.

III. “Targeted Disability”

A “targeted disability” is one that is designated as a “targeted disability or serious health condition” on the U.S. Office of Personnel Management’s Standard Form 256 https://www.opm.gov/Forms/pdf_fill/sf256.pdf . Some targeted disabilities for which PAS may be needed include:

- missing extremities;
- significant mobility impairment benefitting from utilization of supports (such as a wheelchair or walker); and
- partial or complete paralysis.

IV. Role of Disability Program Manager (DPM) and Acting DPM

EEOC has designated a **DPM** to conduct the interactive process, request medical information as necessary, and determine whether to grant or deny PAS. **The DPM handles all requests for PAS, even those requests made to a supervisor or manager. See Section VII on how to contact the DPM.**

The Chief Human Capital Officer will designate another staff member of the Office of the Chief Human Capital Officer (OCHCO) to be the Acting DPM to process requests when the DPM is unavailable for three or more days (*e.g.*, the DPM is on vacation or out on extended leave). The time frames will not be extended for such absences unless they can be considered extenuating circumstances. The DPM’s e-mail and phone messages will make clear how to contact the Acting DPM. The Acting DPM is expected to fully comply with applicable time frames, and must be familiar with the DPM’s role and the PAS obligation under the affirmative action provision of the Rehabilitation Act.

V. Time Frames for Compliance with These Procedures

The following time frames apply to the processing of requests for PAS:

1. If an employee with a disability (or a third party on behalf of an employee) makes a request for PAS to someone other than the DPM, such as a supervisor or someone else in the employee's chain of command, or a District Resource Manager, the recipient must forward the request to the DPM within *2 business days of receiving the request, if practicable*.
2. The DPM will contact the requestor to acknowledge receipt of the request within *7 business days, if practicable, (preferably sooner)* after the request was first received by the DPM. The DPM must fill out the "Confirmation of Request for Personal Assistance Services" Form at the same time as acknowledging receipt of the request. The DPM may or may not begin discussing the substance of the request at that time.
3. The DPM will contact the requestor within *7 business days, if practicable*, of receiving the request to have a substantive discussion about the request – that is, to begin getting more information, as necessary, including information about the medical condition, the requested PAS and why it is needed, and the specific limitations posed by the disability.
4. The DPM will complete processing of the request within *30 business days, absent extenuating circumstances*, after the request was first received by either the DPM or another designated individual (see Number 1, above). Completion of processing includes provision of PAS, if granted. The 30-day period may be extended if medical documentation is requested and/or if there are "extenuating circumstances." "Expedited processing" may sometimes be required. The DPM will communicate to the requestor, orally and through the "Resolution of the Personal Assistance Services Request" Form (Resolution Form), whether such services will be granted or denied.
5. A requestor has *10 business days* after receipt of the "Resolution of the Personal Assistance Services Request" Form to file a request for reconsideration from the Chief Human Capital Officer.
6. The Chief Human Capital Officer has *15 business days* to reconsider the DPM's decision and issue a decision.

VI. Personal Assistance Services Procedures

The Final Rule requires Federal agencies to adopt written procedures for processing requests for PAS.⁴ Consistent with the Final Rule, the EEOC will generally use the same Procedures it follows for processing requests for reasonable accommodation and will follow the same time frames for processing requests. This means employees should follow the guidance in the Reasonable Accommodation Procedures if they want to request PAS. Similarly, the responsibilities of the DPM, the employee, and other relevant EEOC staff (*e.g.*, supervisors and managers) during the interactive process, as discussed in the Reasonable Accommodation

⁴ 29 C.F.R. §1614.203(d)(5)(v).


Procedures, apply to requests for PAS. The DPM will also follow the Reasonable Accommodation Procedures as they address requests for medical information and confidentiality. The Reasonable Accommodation Procedures may be found at [add link].

The provision of PAS may require the DPM to consult with a supervisor and/or manager to ensure that a personal assistance service provider has appropriate access to agency facilities and equipment.

VII. Contacting the DPM and Distribution of These Procedures

Any individual wanting further information concerning these Procedures may contact the DPM via e-mail at disability.program@eeoc.gov.

These Procedures shall be distributed to all employees upon issuance. They will also be posted on the EEOC's Intranet site, included in the employee handbook, and be available in the EEOC's library, in the Office of Equal Opportunity, and the Office of the Chief Human Capital Officer. They will be distributed to all new employees as part of their orientation on their first day of work. These Procedures will be provided in alternative formats when requested from the DPM by, or on behalf of, any EEOC employee.


Victoria A. Lipnic
Acting Chair

**CONFIRMATION OF REQUEST
FOR PERSONAL ASSISTANCE SERVICES**

1. Employee's Name: _____
Employee's Telephone number: _____
Employee's Email Address: _____
Date of Request: _____
Employee's Position: _____
Supervisor's Name: _____
Supervisor's Phone Number: _____

2. TYPE(S) OF PERSONAL ASSISTANCE SERVICES REQUESTED

(Be as specific as possible)

3. REASON FOR REQUEST.

Privacy Act Statement

The Rehabilitation Act of 1973, 29 U.S.C. section 791, and Executive Order 13164 authorize collection of this information. The primary use of this information is to consider, decide, and implement requests for personal assistance services. Additional disclosures of the information may be: To medical personnel to meet a bona fide medical emergency; to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding; to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; and to an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee.

RESOLUTION OF PERSONAL ASSISTANCE SERVICES (PAS) REQUEST

(Must complete numbers 1-4; complete numbers 5-7, as applicable)

(Add additional pages as necessary)

1. Name of Individual requesting PAS:

2. Type of PAS requested:

3. PAS:

approved denied

4. Date PAS granted/denied:

5. Date PAS will be provided, if granted:

6. Request denied because: (may check more than one box)

- Requestor does not have a targeted disability
- PAS ineffective
- PAS would cause undue hardship
- Request is being handled through reasonable accommodation process (for example, where DPM learns through interactive process that a reasonable accommodation is more appropriate than PAS)
- Other Reason (Please explain)

(Over)

7. Detailed reason(s) for denial (Must be specific, e.g., why PAS would be ineffective or cause undue hardship):

8. An individual who disagrees with the resolution of the request may ask the Chief Human Capital Officer to reconsider that decision within 10 business days of receiving this form.

9. An employee receiving PAS should contact the Disability Program Manager as soon as possible after learning that he or she will be moving to a new job or detail in another EEOC office to ensure that PAS will continue to be provided.

Name of Disability Program Manager

Signature of Disability Program Manager

Date this form given to employee